

Voir Dire: United States v. Bienfang and Schmeltzer, 10-cr-130-wmc

Statement of the case: This is a criminal case, in which the defendants, David Bienfang and Christopher Schmeltzer are charged being members of conspiracies related to manufacturing methamphetamine. Defendant Bienfang also is charged with unlawfully possessing chemicals and equipment for the purpose of manufacturing methamphetamine. Each defendant has entered a plea of not guilty to the charge against him.

Have any of you heard of this case before today? Would this affect your ability to serve impartially as a juror in this case?

1. Scheduling: this case will begin today and will conclude by this Wednesday. Are any of you actually unable to sit as jurors because of this schedule?

2. Is there anything about the nature of the charges in this case that might affect your ability to be impartial in this case?

3. The court reads Pattern Jury Instructions of the Seventh Circuit:

Each defendant is presumed to be innocent of the charges against him. This presumption remains with each defendant throughout every stage of the trial and during your deliberations on the verdict, and is not overcome unless from all the evidence in the case you are convinced beyond a reasonable doubt that the defendant is guilty.

The government has the burden of proving the guilt of a defendant beyond a reasonable doubt, and this burden remains on the government throughout the case. A defendant is not required to prove his innocence or to produce any evidence.

Each defendant has an absolute right not to testify. The fact that the defendant does not testify cannot be considered by you in any way in arriving at your verdict.

Even though the defendants are being tried together, you must give each of them separate consideration. In doing this, you must analyze what the evidence shows about each defendant. Each defendant is entitled to have his case decided on the evidence and the law that applies to that defendant.

Would any of you be unable or unwilling to follow these instructions?

4. Ask counsel to introduce themselves, the defendant and the case agent. Ask whether jurors know them.

5. Invite each juror, in turn, to rise, and provide the following information:

Name, age, and city or town of residence.

Marital status and number of children, if any.

Current occupation (former if retired).

Current (or former) occupation of your spouse and any adult children.

Any military service, including branch, rank and approximate date of discharge.

Level of education, and major areas of study, if any.

Memberships in any groups or organizations.

Hobbies and leisure-time activities.

Favorite types of reading material.

Favorite types of television shows.

Whether you regularly listen to talk radio, and if so, to which programs.

Whether you regularly use the internet to visit sites other than e-mail or personal business, and if so, what types of sites you visit most often.

6. Do any of you in the jury box know each other from before today?

7. Have any of you, your relatives or any close friends ever belonged to any group that is concerned in any way with marijuana, alcohol, or other drugs, either for or against them? What is the name of that group, and what is your involvement in it? Would this affect your ability to be impartial in this case?

8. Do any of you think that the drug laws in this country or the enforcement of the drug laws are either too harsh or too lenient?

9. Do any of you believe that a person charged with drug crimes is probably a dangerous person simply because he is charged with a drug crime?

10. You may hear testimony in this case from witnesses who have agreed to testify for the government in exchange for benefits such as a promise not to use their statements against them in a criminal case [*or a reduction in their criminal sentences?*] Do any of you have strong feelings or opinions about the government's use of this sort of plea bargaining to obtain testimony? Would these feelings or opinions affect your ability to be impartial in this case?

11. Do any of you, your family or close friends work in a health related field which treats or counsels people who have problems related to alcohol or other drugs? Would this affect your ability to be impartial in this case?

12. Have any of you, your relatives or close friends ever needed, sought, or obtained any sort of counseling or treatment for a problem related to alcohol or any other drug? [Sidebar if necessary]. Would this affect your ability to be impartial in this case?

13. Have any of you, your relatives, or close friends ever been accused of, or convicted of any criminal offense, or any civil offense involving cocaine or marijuana? [Sidebar if necessary]. Would this affect your ability to be impartial in this case?

14. Do any of you, by virtue of past dealings with the United States government, or for any reason, have any bias for or against the government in a criminal case?

15. Have any of you, your relatives, or close friends ever worked for the local, county, state, or federal government? Would this affect your ability to be impartial in this case?

16. Have any of you, your relatives, or close friends ever worked for, or had other professional contact with any law enforcement, investigative or security company or agency, or any prison? Would this affect your ability to be impartial in this case?

17. Would any of you judge the credibility of a witness who was a law enforcement officer or government employee differently from other witnesses solely because of his or her official position?

18. Would any of you judge the credibility of a witness who had been convicted of a crime in the past differently from other witnesses solely because of this prior conviction?

19. If a defendant were to choose to testify, would any of you judge his credibility differently from other witnesses solely because it was the defendant who was testifying?

20. Have any of you, your relatives, or close friends ever been the victim of any crime? Would this affect your ability to be impartial in this case?

21. Have any of you, your relatives, or close friends ever been a witness in a trial? Is there anything about this experience that might affect your ability to be impartial in this case?

22. Have any of you, your relatives, or close friends ever had any negative experience with any lawyer, any court, or any legal proceeding that would affect your ability to be impartial in this case?

23. How many of you have served previously as a juror in another case? Please tell us in which court you served, approximately when, the type of cases you heard, whether you were foreperson, and the verdicts.

24. If at the conclusion of the trial you were to be convinced of the defendant's guilt beyond a reasonable doubt, is there any one of you who would not, or could not, return a verdict of guilty?

25. If at the conclusion of the trial you were not to be convinced of the defendant's guilt beyond a reasonable doubt, is there any one of you who would not, or could not, return a verdict of not guilty?

26. The court will instruct you on the law to be applied in this case. You are required to accept and follow the court's instructions in that regard, even though you may disagree with the law. Is there any one of you who cannot accept this requirement?

27. Do you know of any reason whatever, either suggested by these questions or otherwise, why you could not sit as a trial juror with absolute impartiality to all the parties in this case?

JUROR BACKGROUND INFORMATION

When asked to do so by the court, please stand and provide the following information about yourself:

Name, age, and city or town of residence.

Marital status and number of children, if any.

Current occupation (former if retired).

Current (or former) occupation of your spouse and any adult children.

Any military service, including branch, rank and approximate date of discharge.

Level of education, and major areas of study, if any.

Memberships in any groups or organizations.

Hobbies and leisure-time activities.

Favorite types of reading material.

Favorite types of television shows.

Whether you regularly listen to talk radio, and if so, to which programs.

Whether you regularly use the internet to visit sites other than e-mail or personal business, and if so, what types of sites you visit most often.