

Voir Dire: United States v. Medina-Mendoza, 12-cr-33-bbc

Statement of the case: This is a criminal case, in which the defendant, Jose Medina-Mendoza, is charged with unlawfully possessing a handgun while being an alien illegally in the United States and with possessing this same handgun while being an unlawful user of marijuana. The defendant has entered a plea of not guilty to these charges.

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

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. Scheduling: this case will begin this morning and should finish tomorrow, (Tuesday). The trial will ordinarily run from 9:00 am to 5:30 pm with a morning break, one hour lunch and an afternoon break. Are any of you actually unable to sit as jurors because of this schedule?

4. The court reads these jury instructions:

The defendant is presumed to be innocent of the charge. This presumption remains with the 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 defendant's guilt beyond a reasonable doubt, and this burden remains on the government throughout the case. The defendant is not required to prove that he is innocent or to produce any evidence.

The 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.

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

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

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

Name, age, and city or town of residence.

Marital/partnership status and number of children, if any.

Current occupation (former if retired).

Current (or former) occupation of your spouse or partner 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 visit the internet other than for banking or e-mail, and if so, what types of sites you visit most frequently.

Whether you have any bumper stickers on your vehicle and what they say.

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

8. The defendant is Hispanic [*Latino?*]. Would any of you find it difficult to serve as an impartial juror in a case in which a Hispanic/Latino man is charged with a crime involving the unlawful possession of firearms and ammunition?

9. The defendant will be using a court interpreter to help him understand what is said during trial. Would any of you find it difficult to serve as an impartial juror in a case in which the defendant needs the assistance of an interpreter?

10. Would any of you find it difficult to serve as an impartial juror in a case in which the defendant is charged with being an illegal alien? [*Unnecessarily repetitious of No. 2?*]

11. Would any of you find it difficult to serve as an impartial juror in a case in which the defendant is charged with being an unlawful user of marijuana? [*Unnecessarily repetitious of No. 2?*]

12. Do any of you believe that a person charged with a gun crime is probably a dangerous person simply because he is charged with a gun crime?

13. Do any of you believe that a person charged with a gun crime is probably a dangerous person simply because he is charged with a gun crime?

14. How many of you own firearms or live with someone who possesses firearms? Would this affect your ability to be impartial in this case?

15. Other than what you have already told us, do any of you belong to any groups or organizations that concern themselves with firearms or the possession of firearms, either for or against? Would this affect your ability to be impartial in this case?

16. Do any of you have any strong opinions or feelings about firearms or the possession of firearms? Would this affect your ability to be impartial in this case?

17. Have any of you, your family or close friends ever been injured by a firearm? Would this affect your ability to be impartial in this case?

18. 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?

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

20. 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?

21. 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?

22. Have any of you ever belonged to any organization or group that excluded people because of their race, gender, or religion?

23. 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?

24. Would any of you judge the credibility of a witness who had been convicted of a crime differently from other witnesses solely because of his or her conviction?

25. Would any of you judge the credibility of a witness who was Hispanic, or Asian, or African American differently from other witnesses solely because of the witness's race?

26. If the 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?

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

28. 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?

29. 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?

30. 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?

31. 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.

32. 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 as to that defendant?

33. 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 as to that defendant?

34. 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?

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

JUROR BACKGROUND INFORMATION

When asked to do so by the court, please stand and answer these questions:

Name, age, and city or town of residence.

Marital/partnership status and number of children, if any.

Current occupation (former if retired).

Current (or former) occupation of your spouse or partner 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.

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