

Voir Dire: United States v. Mathwich, 12-cr-70-wmc

Statement of the case: This is a criminal case, in which the defendant, Timothy Mathwich, is charged with being part of a bank fraud scheme and an insurance fraud scheme involving the J.N. Manson insurance agency and the River Valley Bank, both in Wausau. The defendant has entered a plea of not guilty to the charges 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 could last all week, until this Friday. The trial will ordinarily run from 8:30 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?

2. Do you have any other limitations that would make it difficult for you to serve, for example, back pain, hearing loss or other physical condition?

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

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

The defendant is presumed to be innocent of the charges against him. 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 guilt of the defendant beyond a reasonable doubt, and this burden remains on the government throughout the case. The defendant is not required to prove his innocence 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 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.

Whether you have 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. Have any of you, your family or close friends ever worked in the insurance industry? Would this affect your ability to be impartial in this case?

9. Have any of you on behalf of an employer ever directly communicated with the employer's insurer about the employer's insurance rates or payments? Would this affect your ability to be impartial in this case?

10. Have any of you, your family or close friends ever worked for a bank or other financial institution in capacity higher than bank teller? Would this affect your ability to be impartial in this case?

11. Have any of you ever worked with or are otherwise familiar with “insurance premium financing notes”? Would this affect your ability to be impartial in a case of this nature?

12. 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?

13. [?] You may hear evidence in this case from employees of the Internal Revenue Service. Do any of you have strong feelings or opinions about the IRS that would affect your ability to be impartial in this case?

14. You may hear evidence in this case from witnesses who have agreed to testify for the government in exchange for benefits such as a reduction in their sentences or immunity from prosecution. Do any of you have feelings or opinions about the government’s use of such plea bargaining that would affect your ability to be impartial in this case?

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

16. 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?

17. 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?

18. 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?

19. 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?

20. 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?

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

22. 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?

23. 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?

24. 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.

25. 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?

26. 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?

27. 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?

28. 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.

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