

Transcript of Judge Gergel Jury Orientation Video (as of August 27, 2010)

Good morning and welcome to the United States District Court for the District of South Carolina. My name is Richard Gergel and I am one of the judges here in Charleston. You ladies and gentlemen have been randomly selected as potential jurors for a term of court to be held here in Charleston. Serving as a juror is one of the most important responsibilities you have as a citizen of this country. That's why I'd like to take a few minutes and tell you about your role as a juror, and to give you a general idea of what to expect.

We all recognize that your presence here today - and if you are chosen for a trial, your presence at that trial - is a burden and a hardship for many of you. You've had to set aside whatever you were doing, leave your jobs and families, and sacrifice your time to come and sit here with a room full of strangers. I am sure there are many things that you would rather be doing than sitting here in this courthouse.

Your presence here today, however, is what makes our system of justice one of the fairest in the entire world. The right to a trial by a jury is one of the most important and sacred rights guaranteed by our Constitution.

In fact, one of the complaints listed in the Declaration of Independence was that the King had denied the colonists the right to trial by jury. In the Revolutionary War that followed, people died to restore the right to trial by jury. As a result, the right to trial by jury is guaranteed under our Constitution in both civil and criminal cases.

Jury service may be an inconvenience, but it is also a rare privilege. If you are selected, you will become an active participant in the public administration of justice in the United States. Many of your fellow citizens never have the opportunity. With that in mind, I hope you will each find some fulfillment in your service as a juror.

Let me now explain the jury selection process. As I mentioned earlier, all of you are here today because you were randomly selected from voter registration lists as potential jurors for a term of court in this courthouse. We will soon begin the process of deciding which of you will serve on the trials set for this term of court. Whether or not you are selected to serve on a trial jury, your service here today is important because having a panel of fair-minded, qualified citizens from which to select a jury is, itself, part of the fair-trial process.

In just a few moments, the jury clerk will randomly select a smaller number of you to come to the courtroom to answer some questions about

the first case to be tried. There, you and I will meet in person for the first time. I will first give you some information describing the case to be tried, and then I will ask you a series of questions designed to determine if you can be fair and impartial in that particular case. You will be under oath when you give your answers.

This process is known as "voir dire," which literally means, "to speak the truth" - and you are expected to do so in answering the questions. Our overriding goal in every case is to select a jury that is completely fair and open-minded and that can give all parties a fair trial. The answers that you give to the questions during voir dire will help us achieve this result.

At this point I should mention the questionnaires that we asked you to complete and mail back several weeks ago. The questionnaires contained many questions that we would normally have asked you orally in the courtroom, but we learned from experience that it saves time for everyone to have that information on paper before jury selection begins. We appreciate your cooperation in completing and returning those questionnaires. It saves time for all of us here on jury selection day.

You may wonder about some of the questions you saw on the questionnaire or that you are asked in the courtroom. They may seem personal. But the parties have a right to know some things about the

people who will decide their case. Some of the questions I ask you today may be follow-up questions based on your written responses. Other questions may be specific to the issues in the case for which you are being considered.

The lawyers and I will listen carefully to the answers that you give during voir dire. If a lawyer thinks that there is a specific reason a juror may not be able to decide the case impartially, the lawyer may ask to excuse that juror "for cause."

For example, a juror's answers to my questions may reveal that the juror has personally been involved in a dispute that is very similar to the dispute being tried. In such a case, it may be best to excuse that juror from the jury panel for cause, to guard against the possibility that the juror will be influenced by his or her prior experiences. If you are excused from a particular case for cause, that means you will not sit on that case, though you may be sent back to the jury room for possible selection on another case.

Merely having read or heard something about the case will not automatically disqualify you from serving, nor will past experiences. What must be determined is whether you have made up your mind about the case or can decide it impartially.

There is another reason for the questions we ask you during the voir dire process. This is to allow the attorneys to learn something about you so that the attorney can decide how to use his or her peremptory challenges.

A peremptory challenge or "strike," is one which the lawyer doesn't have to explain. Lawyers may make peremptory challenges because they have a hunch or gut feeling that a prospective juror won't respond favorably to their cause. The challenge, for example, may be based on information the lawyers learned on voir dire. It cannot, however, be based on certain prohibited reasons such as race, gender, or religion.

It is sometimes hard to figure out why certain people are excused, but the lawyers have their own reasons for making challenges based on what they know about their case. If you're excused from a case, please don't take it personally. It's just a normal part of the jury selection process.

I will generally ask questions to the entire panel during the voir dire process. You should listen very carefully to the question. If you decide that you need to respond, you should stand. When I recognize you, first state your juror number and then speak clearly and distinctly in giving your response.

I know from experience that jurors need to make a conscious effort to speak loudly. The court reporter who is taking down the proceedings needs

to hear what you say. So do I and the attorneys. Unfortunately, you will not have a microphone to assist you in giving your answer, so be sure to speak clearly and loudly enough to be heard in the front of the courtroom.

If at any time you feel that your response to any of my questions is private, simply raise your hand and I will ask you to come up to the bench so that we can discuss the matter out of the hearing of the other jurors. However, the lawyers and court reporter must be present when you speak with me.

After the voir dire questioning is complete, I will give the lawyers some time to look over their notes and decide how to use their peremptory challenges. The jurors remaining after the challenges will constitute the trial jury for that particular case.

During this break you will be asked to return to the jury assembly room. If you are selected to serve on a jury, you will be given a sheet of paper that contains essential information about the case for which you have been selected. That paper will tell you the date on which the trial is expected to begin and will give you some other information such as suggestions for parking and other things you need to know about.

After the jury is selected in the first case, we will proceed to select a second smaller group of jurors to come to the courtroom and repeat this

process for the next case, and so forth until juries for all of the cases to be tried this term have been selected.

When you leave here today, you will know whether you have been selected to sit on any juries for this term of court. You will also know the dates on which the trials are tentatively scheduled to begin and you will know approximately how long each trial will last. Those of you who are not selected on any case will be free to leave after the selection process is complete and you will not be required to return during this term of court. You will not be required to serve again for two years for this court. You might, however, be called to serve in a state court proceeding.

As I will remind you if you are selected, it is critically important that you not discuss any case for which you are being considered or have been selected with anyone, not even your fellow jurors, and you also must not do any investigation or reading about the case on your own. Your only exposure to a case that you are to decide should occur in the courtroom.

It has been my experience that potential jurors are sometimes concerned about their ability to fairly decide a case that might appear at first to be quite complicated. While it is true that some of our cases are complicated, you should remember that if you are selected for a jury, everything you need to know, you will see or hear in the courtroom.

All you will need to bring to the courtroom are your common sense and an open mind. Every day, you make judgments about people in situations based on information that you are given. This is what you need to do as a juror. Your everyday common sense, combined with what you learn in the courtroom, will help you reach an impartial decision based on the evidence and the law. That's what a juror's job is all about.

Let me go over a few housekeeping matters with you before concluding. First, as you know, when the Clerk called the roll earlier this morning, you were given a paper that contains your juror number. Please keep that paper (which includes your juror number) because we are going to refer to you by your juror number from this point forward.

In other words, at all times subsequent to this video, whether it is calling the roll, or asking voir dire questions, we are going to refer to you by the individual number assigned to you. For obvious reasons, we do not want there to be any confusion as to who is responding to questions during the selection process, so it is critically important that you maintain possession of your juror number and not confuse it with other numbers. We use the numbers instead of names to help ensure your privacy.

You may have other questions, such as how to verify for your employer that you have been serving as a juror or where to get lunch. The

Clerk's Office personnel assigned to work with you will be happy to assist you with these matters. Also, I will certainly be glad to respond to any questions you may have in the courtroom during the jury selection process.

In America, the very foundation of our democratic society is a guarantee of the right to a fair trial by an impartial jury of our peers. Each day across this country, thousands of individuals participate in preserving that fundamental right. Today, it's your turn.

I look forward to working with you in the jury selection process that will follow this video. Thank you for your attention.