

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America,)	No. CR10-0400 PHX DGC
)	
Plaintiff,)	
)	
v.)	
)	
Janice Sue Taylor,)	
)	
Defendant.)	
_____)	

**COURT'S PRELIMINARY JURY INSTRUCTIONS
AND VOIR DIRE**

DATED: April 1, 2011



David G. Campbell
United States District Judge

1.1 DUTY OF JURY

Jurors: You now are the jury in this case, and I want to take a few minutes to tell you something about your duties as jurors and to give you some preliminary instructions. At the end of the trial I will give you more detailed, written instructions that will control your deliberations. When you deliberate, it will be your duty to weigh and to evaluate all the evidence received in the case and, in that process, to decide the facts. To the facts as you find them, you will apply the law as I give it to you, whether you agree with the law or not. You must decide the case solely on the evidence and the law before you and must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathy. Please do not take anything I may say or do during the trial as indicating what I think of the evidence or what your verdict should be – that is entirely up to you.

1.2 THE CHARGE -- PRESUMPTION OF INNOCENCE

The government charges the defendant with criminal tax evasion. The charges against the defendant are contained in the indictment. The indictment simply describes the charges the government brings against the defendant. The indictment is not evidence and does not prove anything.

The indictment alleges that defendant evaded taxes and failed to submit personal income tax returns from 2003 through 2006. For each tax year between 2003 and 2006, the indictment charges one count of tax evasion in violation of 26 U.S.C. §7201 and one count of failure to file a return in violation of 26 U.S.C. §7203. Defendant has pleaded not guilty to all charges and is presumed innocent unless and until the government proves the defendant guilty beyond a reasonable doubt. In addition, the defendant has the right to remain silent and never has to prove innocence or to present any evidence.

1.3 WHAT IS EVIDENCE

The evidence you are to consider in deciding what the facts are consists of:

- (1) the sworn testimony of any witness;
- (2) the exhibits which are received in evidence; and
- (3) any facts to which the parties agree.

1.4 WHAT IS NOT EVIDENCE

The following things are not evidence, and you must not consider them as evidence in deciding the facts of this case:

1. statements and arguments of the attorneys;
2. questions and objections of the attorneys;
3. testimony that I instruct you to disregard; and
4. anything you may see or hear when the court is not in session even if what you see or hear is done or said by one of the parties or by one of the witnesses.

1.5 DIRECT AND CIRCUMSTANTIAL EVIDENCE

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence, that is, it is proof of one or more facts from which one can find another fact.

You are to consider both direct and circumstantial evidence. Either can be used to prove any fact. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

1.6 RULING ON OBJECTIONS

There are rules of evidence that control what can be received in evidence. When a lawyer or Ms. Taylor asks a question or offers an exhibit in evidence and a lawyer or Ms. Taylor thinks that it is not permitted by the rules of evidence, that lawyer or Ms. Taylor may object. If I overrule the objection, the question may be answered or the exhibit received. If I sustain the objection, the question cannot be answered, or the exhibit cannot be received. Whenever I sustain an objection to a question, you must ignore the question and must not guess what the answer would have been.

Sometimes I may order that evidence be stricken from the record and that you disregard or ignore the evidence. That means that when you are deciding the case, you must not consider the evidence that I told you to disregard.

1.7 CREDIBILITY OF WITNESSES

In deciding the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it.

In considering the testimony of any witness, you may take into account:

- (1) the witness's opportunity and ability to see or hear or know the things testified to;
- (2) the witness's memory;
- (3) the witness's manner while testifying;
- (4) the witness's interest in the outcome of the case, if any;
- (5) the witness's bias or prejudice, if any;
- (6) whether other evidence contradicted the witness's testimony;
- (7) the reasonableness of the witness's testimony in light of all the evidence; and
- (8) any other factors that bear on believability.

The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify about it.

1.8 CONDUCT OF THE JURY

I will now say a few words about your conduct as jurors.

First, keep an open mind throughout the trial, and do not decide what the verdict should be until you and your fellow jurors have completed your deliberations at the end of the case.

Second, because you must decide this case based only on the evidence received in the case and on my instructions as to the law that applies, you must not be exposed to any other information about the case or to the issues it involves during the course of your jury duty. Thus, until the end of the case or unless I tell you otherwise:

Do not communicate with anyone in any way and do not let anyone else communicate with you in any way about the merits of the case or anything to do with it. This includes discussing the case in person, in writing, by phone or electronic means, via email, text messaging, or any Internet chat room, blog, website or other feature. This applies to communicating with your fellow jurors until I give you the case for deliberation, and it applies to communicating with everyone else including your family members, your employer, the media or press, and the people involved in the trial, although you may notify your family and your employer that you have been seated as a juror in the case. But, if you are asked or approached in any way about your jury service or anything about this case, you must respond that you have been ordered not to discuss the matter and to report the contact to the court.

Because you will receive all the evidence and legal instruction you properly may consider to return a verdict: do not read, watch, or listen to any news or media accounts or commentary about the case or anything to do with it; do not do any research, such as consulting dictionaries, searching the Internet or using other reference materials; and do not make any investigation or in any other way try to learn about the case on your own.

The law requires these restrictions to ensure the parties have a fair trial based on the same evidence that each party has had an opportunity to address. A juror who violates these restrictions jeopardizes the fairness of these proceedings, and a mistrial could result that would require the entire trial process to start over. If any juror is exposed to any outside information, please notify the court immediately.

1.9 NO TRANSCRIPT AVAILABLE TO JURY

At the end of the trial you will have to make your decision based on what you recall of the evidence. You will not have a written transcript of the trial. I urge you to pay close attention to the testimony as it is given.

1.10 TAKING NOTES

If you wish, you may take notes to help you remember the evidence. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. Do not let note-taking distract you from being attentive. When you leave court for recesses, your notes should be left in the courtroom. No one will read your notes.

Whether or not you take notes, you should rely on your own memory of the evidence. Notes are only to assist your memory. You should not be overly influenced by your notes or those of your fellow jurors.

1.11 OUTLINE OF TRIAL

The next phase of the trial will now begin. First, each side may make an opening statement. An opening statement is not evidence. It is simply an outline to help you understand what that party expects the evidence will show. A party is not required to make an opening statement.

The government will then present evidence and Ms. Taylor may cross-examine. Then, if Ms. Taylor chooses to offer evidence, counsel for the government may cross-examine.

After the evidence has been presented, the attorneys and Ms. Taylor will make closing arguments and I will instruct you on the law that applies to the case.

After that, you will go to the jury room to deliberate on your verdict.

2.1 CAUTIONARY INSTRUCTION – FIRST RECESS

We are about to take our first break during the trial and I want to remind you of the instruction I gave you earlier. Until the trial is over, you are not to discuss this case with anyone, including your fellow jurors, members of your family, people involved in the trial, or anyone else, nor are you allowed to permit others to discuss the case with you. If anyone approaches you and tries to talk to you about the case, please let me know about it immediately. Do not read or listen to any news reports of the trial. Finally, you are reminded to keep an open mind until all the evidence has been received and you have heard the arguments of counsel, the instructions of the court, and the views of your fellow jurors.

If you need to speak with me about anything, simply give a signed note to the clerk to give to me.

I will not repeat these admonitions each time we recess or adjourn, but you will be reminded of them on such occasions.

2.2 BENCH CONFERENCES AND RECESSES

From time to time during the trial, it may become necessary for me to talk with the attorneys out of the hearing of the jury, either by having a conference at the bench when the jury is present in the courtroom, or by calling a recess. Most often these conferences will involve determination as to whether evidence is admissible under the rules of evidence. It is appropriate to take these matters up outside the presence of the jury. Should I conclude that a more prolonged discussion is necessary, I may excuse you from the courtroom.

We will, of course, do what we can to keep the number and length of these conferences to a minimum. I may not always grant an attorney's request for a conference. Do not consider my granting or denying a request for a conference as any indication of my opinion of the case or of what your verdict should be.

CRIMINAL VOIR DIRE QUESTIONS

1. Read statement of the case.
 - Have any of you read or heard anything about this case from any source whatsoever?
 - Given this brief description of the facts, is there anything about this case that would cause you to believe that you could not consider the evidence fairly and impartially according to the law?
2. Introduce self and staff: Lisa Richter, Tricia Lyons, Jeff Kilmark, Florin Ivan, Avram Ivan, and Nancy Johnson Outley. Do any of you know me or any member of my staff on any basis, social, professional or otherwise?
3. The United States is represented by Frank T. Galati and James R. Knapp. Counsel please stand. They are assistant United States attorneys.
 - The United States attorney is Dennis K. Burke. Do any of you know counsel, or the United States attorney, or any of the employees in his office on any basis, social, professional or otherwise?
 - Counsel, please introduce your investigator. Do any of you know the investigator or any employees of his office on any basis, social, professional or otherwise?
4. The defendant, Janice Sue Taylor, is representing herself. Ms. Taylor please stand.
 - Do any of you know the defendant on any basis, social, professional or otherwise?

5. The witnesses who may be called during this trial are: (See Witness Tab):
 - Do any of you know or think you might know any of these witnesses?
6. Have you or any members of your family, including brothers, sisters, parents or children, or close friends, ever been the victims of criminal conduct? (give small example)
 - If yes, please explain including what the incident was, what police agency investigated, did you have to make a statement, and was the responsible party apprehended?
 - Do you think this experience would prevent you from being fair and impartial in this case?
7. Have you or any members of your family ever been convicted of a felony?
 - If so, which family member, what offense, and what was the disposition?
 - Do you think this experience would prevent you from being fair and impartial in this case?
8. Have you or any members of your family or close friends ever served in the capacity of law enforcement officer:
 - Please note that in the definition of law enforcement officer, I am including not only police officers, but also employees of law enforcement agencies, military police, INS, border patrol, DEA, ATF, etc.
 - Do you think this relationship would prevent you from being fair and impartial in this case?

9. There will be witnesses called during this trial who are members of law enforcement and who may have been in that profession for a number of years.
 - Would you give greater or lesser weight to their testimony solely because of their employment and experience in law enforcement?
10. Have any of you or members of your family been a party or witness in any litigation (excluding domestic relations, traffic, or probate)?
 - Do you think this experience would prevent you from being fair and impartial in this case?
11. Do any of you or any of the members of your family have any legal training?
 - Do you think this training would affect your ability to be fair and impartial in this case?
12. Do you, a member of your family, or a close personal friend, have any disagreement with the proposition that every person in this country is required to comply with the federal income tax laws, as well as the other laws, whether or not personally agreeing with those laws?
13. Do you, a member of your family, or a close personal friend, belong to any organization or group that believes or claims that the federal income tax system is voluntary or need not be complied with for any reason whatsoever?
14. Some of the witnesses who may testify in this case are associated with the Internal Revenue Service (IRS). Have you had any contact or experience with this agency,

or any other governmental agency, which would make it difficult for you to render a fair and impartial verdict in this matter?

15. Have you, a member of your family, or a close personal friend, ever been audited or investigated, been the subject of collection efforts or sued, or had other extensive contact by the IRS or a state Department of Revenue or other taxing authority? If so, is there anything about that experience which would make it difficult for you to be fair and impartial?
16. Have you, your family members or close friends ever had a negative experience with the United States government or any agency or subdivision of the United States government, or any other government, which causes you to question your ability to sit as a fair and impartial juror in this case?
17. This is a criminal case brought by the United States against the defendant, Sue J. Taylor aka Janice Sue Taylor. The charges are income tax evasion and willful failure to file a tax return. Do you hold any beliefs, feelings, biases or prejudices against these type of prosecutions such that you doubt your ability to sit as a fair and impartial juror?
18. In this case, the defendant has chosen to represent herself (with the aid of an attorney, Ms. Anderson) which is the constitutional right of every criminal defendant. I have advised the defendant that she would be at a great disadvantage by representing herself since she is not trained as an attorney. The law does not allow the Court to assist a defendant or to relax the rules that govern the trial of

this case. Likewise, the attorneys for the United States must treat the defendant as if she were trained as an attorney. Further, the fact that a defendant has chosen to represent herself must not enter into your deliberations, if you are chosen as a juror in this case. Will the fact that the defendant has chosen to represent herself cause you to be less than fair and impartial to either side?

19. In some way, each of you are either investors in the United States, through the Social Security System, or recipients of some benefit that is derived from tax revenues paid into the United States. Would the fact you are receiving or are to receive any benefit now or in the future from the United States government, in any way, persuade you to favor the government's case herein?
20. Would the fact that you felt obligated to file tax returns, while Janice Sue Taylor did not, cause you to believe that if you have to file, Janice Sue Taylor has to file, and conviction is appropriate?
21. Will you, if selected as a juror, hold prejudice against Janice Sue Taylor in this case because she chose to dispute the government's accusations?
22. Do you have any problem falling asleep if you sit for long periods of time?
23. Have you received benefits such as unemployment insurance, food stamps, welfare, student loans, or any other assistance from the government?
24. I will instruct you what the law is at the conclusion of the case. If selected as a juror, you will take an oath to follow the law. Does anyone think you would have trouble following the law even if you may disagree with it?

25. In a civil case the burden of proof is a preponderance of the evidence. This is a criminal case in which the government must prove guilt beyond a reasonable doubt. Does anyone have any difficulty in holding the government to its burden?
26. Here are some fundamental principles of law:
- The fact that an indictment has been filed raises no presumption whatsoever of the guilt of the defendant.
 - The United States government must satisfy you beyond a reasonable doubt of the guilt of the defendant.
 - The defendant does not have any obligation to testify or to produce any evidence and you may not draw an adverse inference if the defendant chooses not to testify.
 - The defendant is presumed to be innocent until his guilt is established beyond a reasonable doubt.
 - You must wait until all of the evidence has been presented before making up your minds as to the innocence or guilt of the defendant.
 - Does anyone believe that they would have any difficulty following these principles of law?
27. Ladies and gentlemen, we recognize that jury service is probably an inconvenience for you, taking you away from your jobs and families and disrupting your daily routine. Jury service is, however, one of the most important duties that citizens of this country can perform. For this reason, from time to time we ask citizens to

make sacrifices and serve on juries, even when inconvenient. Prospective jurors can be excused from jury service if the length of the trial or the daily schedule would impose undue hardship. By undue hardship I mean more than inconvenience – I mean genuine hardship that would be experienced by you or your family. This case is expected to last ___ days. Would the length of the trial create an undue hardship for any of you?

28. I expect to conduct trial on these dates and times:

- Would this schedule create an undue hardship for any of you?

29. Do any of you have any other reason whatsoever, such as a physical difficulty, a health problem or home problems that might interfere with your serving as a fair and impartial juror in this case?

30. Some of the participants in this trial are ethnic minorities. Has anyone had any contact or experience with ethnic minorities which would make it difficult to render a fair and impartial verdict in this matter?

31. Ladies and Gentlemen, we have handed you a sheet with 10 separate questions.

Please stand and answer the questions. The last question asks about your prior jury service. With respect to civil cases, just tell us the number of civil juries on which you have served. With respect to criminal cases, please indicate the nature of the crime involved and the result of the case, guilty, not guilty, or hung jury, for each of the criminal juries you have served on.

32. Did any of you know each other before this morning?
33. If there are any matters that you would rather discuss privately that may affect your ability to be a fair and impartial juror, please let the Court know.

1. Juror number
2. The general location of your residence
3. Length of time at current residence
4. Education after high school, if any. State your major
5. Marital status
6. Number of children. Ages of children if under 18
7. Employment
 - A. Yourself – current job and types of jobs throughout lifetime
 - B. Spouse – current job and types of jobs throughout lifetime
8. Civil, social, fraternal, union or professional organizations. Offices held in them
9. Hobbies or recreational activities
10. Prior jury service – civil or criminal