

### Proposed Jury Questions

1. Ladies and gentlemen, the Government, my opponent in this case, will be calling a witness they'll refer to as a cooperating witness in this case.
2. To get to the truth for you, I will need to ask him some tough questions.
3. I may need to be aggressive with him in my questioning to help test his credibility for you in our search for the truth
4. I must do this to perform my ethical obligation to my client and the Court.
5. Would any of you hold against my client the fact that I was doing my job?
6. The only witness called in this case against my client is a Government informant.
7. He has been given a promise of leniency in exchange for his testimony by my opponent, the prosecutor
8. Is there anyone on the panel who will automatically believe such a witness just because he's on the side of the Government?
9. Will all of you make him earn your credibility based on his testimony, manner of testimony and compare his story with all the other evidence presented?
10. Have any of you been falsely accused of doing something wrong?
11. Do any of you have a family member who has been falsely accused of doing something wrong?
12. Have any of you, or any of your friends or family members, been wrongly accused by an informant?
13. Would any of you believe that the Government informant is always correct?

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Cross Examination of Earl Rodney

Q: Mr. Rodney, we meet again.

A: I guess so.

Q: Mr. Rodney, the last time we met I was the prosecutor and a jury convicted you of First Degree Murder and recommended a life sentence in the Missouri Department of Corrections. Correct?

A: I guess so.

Q: And you didn't like that sentence so you cut a deal with your new friends at the U.S. Attorney's office?

A: I reached out to them to see what could be done for me.

Q: Now you're in Federal custody, in a facility with a swimming pool and tennis courts. Correct?

A: No.

Q: There are no tennis courts or a swimming pool behind the walls of the Jefferson City State Penitentiary, were there?

Cross Examination of Brock DeCastrogiovanimousolf

Q: What do you say your name is again?

A: Brock DeCastrogiovanimousolf.

Q: That certainly isn't your given name.

A: It is now.

Q: What was your name at birth?

A: Uh.

Q: What do your parents call you?

A: Uh.

Q: What were you called in grade school?

A: Uh.

Q: Do you have a social security card with that name on it?

A: No.

Q: Have you ever titled a car or a house in that name?

A: No

Q: When did you legally change your name?

Q: In what state?

Q: Are you aware that we could not find verification of anyone under that name in the entire United States?

Q: Is the story you are telling us today as much of a fabrication as your name?

#### Cross Examination of Debbie Kelton

Q: Do you wear clothes where you work?

A: No.

Q: Do you dance on tables where you work?

A: Yes.

Q: Do you sit on men's laps where you work?

A: Yes.

Q: Is there a \$20.00 cover charge where you work?

A: Yes.

Q: Do you go by an exotic name such as "Elektra" where you work?

A: Yes.

Objection by the Government!

#### Cross Examination of Olusoji Olowokandi

Q: How tall are you?

A: Six foot seven.

Q: Three hundred some pounds?

A: Yes.

Q: You are a big boy. You fancy yourself as a good basketball player, right?

A: Yes, sir.

Q: Played four different colleges before you got in trouble in this case right here in the United States?

A: Yes, sir.

Q: Ever played one-on-one?

A: Yes.

Q: Let's you and I play a little one-on-one all right?

A: Yes, sir.

Q: Your brother Michael is the oldest of five?

A: Yes.

Q: You being the third?

A: Yes.

Q: Michael is an honest man?

A: Yes, sir.

Q: Michael doesn't steal, Michael doesn't lie, right?

A: No, sir.

Q: Michael was the first round pick in the N. B. A. draft a number of years ago, correct?

A: Yes.

Q: At the time we are speaking of he was playing for the L.A. Clippers.

A: Yes, sir.

Q: He was living out of Los Angeles.

A: I went over there for a couple of days.

Q: Isn't it true you stayed with your brother Michael for awhile?

A: Yes, sir.

Q: And isn't it true you had access to Michael's computer for awhile?

A: No, sir, that's not true.

Q: Isn't it true you got on board and looked at his computer?

A: No, sir.

Q: Isn't it true you had access to Michael's social security number?

A: Yes, sir.

Q: Bank account numbers with the Bank of America?

A: Yes, sir.

Q: And isn't it true you stole those identifying numbers from your brother?

A: Yes, sir.

Q: Isn't it true you left his home in California and came back here to the Midwest?

A: Yes.

Q: Isn't it true you stole \$35,000.00 from your loving brother, Michael Olowokandi?

A: Yes.

Q: The honest older brother?

A: Yes, sir.

Q: Would it be fair to say you are not here out of the goodness of your heart, you are here because you are trying to deal with the government, correct?

A: No, sir.

Q: It would be fair to say if you say nothing and don't testify some bad things are going to happen to you?

A: I don't know that.

Q: It would be fair to say if you testify inconsistently with what you told Agent Colegrove in the past it's your understanding you are going to get in trouble and there might not be a deal?

A: Yes, sir.

Q: Be fair to say since you hit the United States when you got here you committed identity fraud on numerous occasions?

A: Yes, sir.

Q: Fair to say you committed wire fraud on many occasions?

A: Yes, sir.

Q: You have used phones and wires to transfer thousands and thousands of dollars?

A: Yes, sir.

Q: To your personal gain?

A: Yes, sir.

Q: It would be fair to say you have committed immigration fraud against the laws of this country and this government?

A: Yes.

Q: It would be fair when it suited your purpose you have lied?

A: Yes, sir.

Q: At every turn?

A: Not every turn, sir.

Q: At a lot of turns?

A: Yes, sir.

Q: More than a couple, right Soji?

A: Yes, sir.

Q: You have lied on employment applications to get lodging at schools here in our state, Missouri, correct?

A: Yes, sir.

Q: You have lied to one school about your status at another school, correct?

A: Yes.

Q: You have lied to the INS, which is the National Immigration Services that governs immigrants in your country; you have lied to them about your status in this country, right?

A: I didn't lie to the INS. They know my status.

Q: When you came to our country you promised you would abide by our laws?

A: Yes.

Q: You promised you would be a productive citizen, correct?

A: Yes.

Q: You promised you would work and go to school?

A: As far as I went to school.

Q: You promised you would be a full-time student carrying 15 hours a semester.

A: Yes.

Q: You never did that?

A: No, sir.

Q: You broke your promise to the INS?

A: Yes.

Q: You broke your oath to them, didn't you?

A: Yes, sir.

Q: Soji Olowokandi is not the only name you have used in your stay in our country, right?

A: Yes, sir.

Q: You have used aliases, true?

A: Yes.

Q: How many?

A: Two.

Q: You used those false names when it suited your purpose?

A: Yes, sir.

**INSTRUCTION NO. \_\_\_\_**

You have heard the testimony about the character and reputation of Soji Olowokandi for truthfulness. You may consider this evidence only in deciding whether to believe the testimony of Soji Olowokandi and how much weight to give to it.

Defendant's Instruction No. \_\_\_\_  
SOURCE: 8<sup>th</sup> Circuit Model Jury Instructions  
No. 4.02

**INSTRUCTION NO. \_\_\_\_\_**

You have heard evidence that Soji Olowokandi has made a plea agreement with the Government. His testimony was received in evidence and may be considered by you. You may give his testimony such weight as you think it deserves. Whether or not his testimony may have been influenced by the plea agreement is for you to determine.

The witness's guilty plea cannot be considered by you as any evidence of this defendant's guilt. The witness's guilty plea can be considered by you only for the purpose of determining how much, if at all, to rely upon the witness' testimony.

Defendant's Instruction No. \_\_\_\_\_  
SOURCE: 8<sup>th</sup> Circuit Model Jury Instructions  
No. 4.04

**INSTRUCTION NO. \_\_\_\_\_**

You have heard testimony from Soji Olowokandi who stated that he participated in the crime charged against the defendant. His testimony was received in evidence and may be considered by you. You may give his testimony such weight as you think it deserves. Whether or not his testimony may have been influenced by his desire to please the Government or to strike a good bargain with the Government about his own situation is for you to determine.

Defendant's Instruction No. \_\_\_\_\_  
SOURCE: 8<sup>th</sup> Circuit Model Jury Instructions  
No. 4.05

**INSTRUCTION NO. \_\_\_\_\_**

You are about to hear evidence that Soji Olowokandi hopes to receive a reduced sentence on criminal charges pending against him in return for his cooperation with the Government in this case. Soji Olowokandi entered into an agreement with the United States Government which provides that in return for his assistance, the Government will recommend a less severe sentence which could be less than the mandatory minimum sentence for the crimes with which he is charged. Soji Olowokandi is subject to a mandatory minimum sentence, that is, a sentence that the law provides must be of a certain minimum length. If the prosecutor handling the witness's case believes he provided substantial assistance, that prosecutor can file in the court in which the charges are pending against this witness a motion to reduce his sentence below the statutory minimum. The judge has no power to reduce the sentence for substantial assistance unless the Government, acting through the United States Attorney, files such a motion. If such a motion for reduction in sentence for substantial assistance is filed by the Government, then it is up to the Judge to decide whether to reduce the sentence at all, and if so, how much to reduce it.

You may give the testimony of this witness such weight as you think it deserves. Whether or not testimony of a witness may have been influenced by his hope of receiving a reduced sentence is for you to decide.

Defendant's Instruction No. \_\_\_\_\_  
SOURCE: 8<sup>th</sup> Circuit Model Jury Instructions  
No. 4.05A

**INSTRUCTION NO. \_\_\_\_\_**

The testimony of a cooperating witness who provides evidence against the defendant for promises of a reduced sentence must be examined and weighed by the jury with greater care than the testimony of an ordinary witness and the jury must determine whether the witness's testimony has been affected by interest or by prejudice against the defendant.

Defendant's Instruction No. \_\_\_\_\_

SOURCE: *United States vs. Swiderski*, 539 F.2d 854 (2d Cir. 1976)

**INSTRUCTION NO. \_\_\_\_**

You have heard evidence that the witness Soji Olowokandi was once convicted of a crime. You may use that evidence only to help you decide whether to believe the witness and how much weight to give his testimony.

Defendant's Instruction No. \_\_\_\_  
SOURCE: 8<sup>th</sup> Circuit Model Jury Instructions  
No. 2.18