

United States v. Ghailani: Preliminary Remarks to Venire

Hon. Lewis A. Kaplan
Southern District of New York
September 23, 2010

The following text was prepared by U.S. District Judge Lewis A. Kaplan of the Southern District of New York to address prospective jurors selected for the prosecution of Ahmed Khalfan Ghailani for participation in the 1998 bombings of the American embassy in Dar es Salaam, Tanzania, *United States v. Ghailani*, No. 1:98-cr-1023-9 (S.D.N.Y. Sept. 21, 1998). Ghailani was a fugitive until 2004, when he was captured and held by the CIA. He was transferred to Guantánamo Bay in 2006 and to the Southern District of New York for prosecution in 2009.

Preliminary Remarks to Venire

Good morning, everybody. I'm Judge Lewis Kaplan. We are about to begin the process of selecting a jury for a criminal case, and I'm going to describe the process to you briefly and tell you just a little about the case. The process is a little different from the one we normally use.

The first step in the process is going to occur today, this morning. In a few minutes, after you've been sworn, you're going to be given questionnaires to fill out. It's important that you be truthful and accurate in answering the questions on the questionnaires, because they're going to be important in selecting the jury. When you're done, the questionnaires will be collected, and you will be done for the day. You can go home.

Some of you are going to be asked to return for the second phase of jury selection which will involve oral questioning that many of you are probably familiar with. That's going to start on September 29. It may continue on the 30th and possibly for another day or so. Later today you'll get instructions about how you're going to find out whether you're going to need to come back for oral questioning and exactly on which date and at what time you should come.

Once the second phase, the oral questioning, is completed, a number of you will be asked to return for the final step in jury selection and some of those who will come back at the third phase will be selected to serve on the jury. We're not a hundred percent certain of the date, but it's very likely to be Monday, October 4th.

Now, the second thing I need to do is to tell you a little bit about this case. As I said to you at the outset, this is a criminal case. It's brought by the United States. The defendant is a man named Ahmed Khalfan Ghailani. Mr. Ghailani is charged with various crimes arising out of the bombing of the United States embassies in Africa a number of years ago. Mr. Ghailani denies the charges against him. As in all criminal cases, he is presumed innocent and that presumption stays

with him throughout the case, unless and until the government proves that he is guilty beyond a reasonable doubt. He doesn't have to prove that he's innocent.

It is quite likely there is going to be press coverage in this case. There has been some already. I instruct you that you are not to read, watch, or listen to anything having to do with this case from this moment onward. You are not to discuss it among yourselves. You're not to discuss it with family, friends, or anyone else. You're not to do any research about the case or about anybody who is involved in it. That includes Google; it includes internet searches. No Googling, no Tweeting, none of that stuff.

Finally, I'd like to explain to you that your privacy can and will be protected, even in a case in which there will be publicity, which is quite likely here. Some of you may have heard about jurors being sequestered, especially in the old days when people got called for jury duty and wound up on a case: they got sent to hotels with guards every night until the case was over. We don't intend to do that. That's mainly a historical artifact. Those of you who serve on the jury in this case will go home every night. However, the names and addresses and other identifying information about jurors, including their places of employment, will not be disclosed to anyone except the chief jury clerk who will send each juror his or her check for serving. This is to insure the privacy of the jurors, to make sure it's preserved and to make sure that they are not contacted by the press or anybody else who may want to discuss the case with them.

Now, as you're going to learn in a few minutes, the questionnaires that you fill out will not have your names on them. Each of you has a number assigned to you and that number will go on the questionnaire. You'll put it on there instead of writing your name. The names of the jurors in this case will not be known to the lawyers, the witnesses, or the parties, or even to me. Selecting an anonymous jury like this is not unusual. It's been done in many cases in federal courts. Anonymity deters curiosity and protects the privacy of those selected to serve on the jury. In addition, once the jury is picked for this case, the jurors will be picked up every morning by deputy United States marshals at one or more convenient meeting places around the city, or possibly even outside the city, and driven from those pickup points right into the courthouse.

While the jurors are in the courthouse, they'll remain with the marshals. They'll have their coffee breaks and their meals together. The Court will provide a light breakfast, coffee, other refreshments, and lunch every day; I guess I should say, at no charge. I think that's right. I'm sure. In the evening the jurors will be driven from the courthouse by the marshals to one or more convenient dropoff points from which the jurors will then make their own ways home. The locations of the morning pickup places and the evening dropoff places will not be disclosed publicly. They're likely to change during the course of the trial.

And so that's the way this is going to unfold. Three phases of jury selection; and for those persons who are ultimately selected, their privacy will be retained and they will be anonymous to the outside world and indeed even to court personnel except for one person who will keep juror identity information in a vault.

So that's my little story for you this morning. You'll get the questionnaires in a few minutes. Most of you I will never see again, but I thank you in advance for your help and cooperation. I'm sure that down the road I will see some of you

once more at least. So be well and thanks again. And if there are any members of the press in here? No? Good. Okay. Thank you.