

MARKUS / MOSS

October 1, 2026

By ECF

The Honorable LaShann DeArcy Hall
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *United States v. Eric Earnest, et al.*, No. 25-CR-323 (S-1) (LDH)

Dear Judge DeArcy Hall:

We represent Terry Rozier. We write to request a short, written juror questionnaire to be completed by the venire before oral voir dire. Our proposed questionnaire is attached as Exhibit A. Its questions fit on a single page. If the Court orders a questionnaire, we will work with the government on an agreed version.

At the last status conference, the Court indicated that it was not inclined to use a questionnaire. We raise the issue here in writing because the publicity in this case is unusual and because the instrument we propose is short.

This case was announced to the country at a press conference which created a media frenzy. The Director of the FBI came from Washington to lead it. (Press Conf. Tr. at 16:51.)¹ He stood with the United States Attorney, the New York City Police Commissioner, and six other senior officials. (*Id.* at 00:33.) He thanked the United States Attorney for taking the time “to display the work that the media is about to hear about today in detail.” (*Id.* at 04:28.) Mr. Rozier was named from the podium. The Police Commissioner told the cameras that his career was “benched, not for injury, but for integrity.” (*Id.* at 25:54.) National outlets ran live coverage. The White House Press

¹ Citations to the October 23, 2025 press conference (“Press Conf. Tr.”) are to the timestamped transcript at <https://www.rev.com/transcripts/fbi-briefing-on-nba-gambling-investigation>. Video is available at <https://www.c-span.org/program/news-conference/fbi-director-patel-news-conference-on-basketball-gambling-probe-arrests/667684>.

Secretary was asked about the case that day. House Minority Leader Hakeem Jeffries, who represents Brooklyn, discussed it on CNN.² The coverage has continued ever since.

Terry Rozier is a well-known NBA player. Before the government wrongfully called him corrupt, he was well-respected and beloved. He played ten seasons in the NBA, for the Boston Celtics, the Charlotte Hornets, and the Miami Heat. The league placed him on leave the day he was arrested. Basketball fans in this district know his name. The proposed questionnaire asks how closely each juror follows professional basketball and which team is theirs. (Ex. A, Qs. 4–5.)

This prosecution is about sports wagering. Likely a meaningful share of any venire in this district has placed sports bets, including proposition bets. Some have lost money. Some have gambling problems or love someone who does. Some hold strong views about athletes, leagues, or sportsbooks. But potential jurors may be hesitant to discuss these topics in open court. They may be hesitant to tell a room full of strangers that they gamble too much or got burned on a prop bet. But potential jurors are much more willing to express themselves on a written questionnaire where they do not have to answer questions in front of an audience.. The proposed questionnaire gives them a place to do that (Ex. A, Qs. 6–7) and lets them mark any answer “PRIVATE” so the Court can take it up at sidebar.

The questionnaire also lets each prospective juror tell the Court, in her own words, what she has seen and heard about this case. (Ex. A, Q. 8.) Written responses often elicit more candid and complete answers than questioning in open court, where prospective jurors may be less comfortable discussing their exposure to the case in front of others.

Those answers are especially important here. The government announced this case alongside a separate indictment charging members of New York’s Mafia families with running rigged poker games. Mr. Rozier is not charged in that case. No one has ever accused him of any connection to organized crime. But the two cases were presented together. The FBI announced the arrest of thirteen members and associates of three crime families and, in the next sentence, named Mr. Rozier. (Press Conf. Tr. at 17:36.) Three defendants in this case, Damon Jones, Eric Earnest, and Shane Hennen, are charged in both. (*Id.* at 06:54.) The headlines merged them. Newsweek ran its live coverage under the title “NBA’s Chauncey Billups, Terry Rozier and Others Tied to Mafia

² *NBA’s Chauncey Billups, Terry Rozier and Others Tied to Mafia in FBI Gambling Probe*, Newsweek (Oct. 23, 2025) (live coverage, including White House and congressional reaction), <https://www.newsweek.com/chauncey-billups-terry-rozier-nba-fbi-gambling-live-updates-10926908>.

in FBI Gambling Probe.” *See supra* note 2. A juror who thinks this is a mob case is wrong. The questionnaire never mentions organized crime, and it should not. A juror who absorbed that story will say so on her own. The Court can then correct the misimpression or, if it cannot be corrected, excuse the juror.

The same question reaches the other stories a juror may confuse with this one. It asks about gambling allegations against professional athletes, not only those against Mr. Rozier. That covers Jontay Porter, whom the United States Attorney named at the press conference as a co-conspirator in this scheme. (Press Conf. Tr. at 06:54.) Mr. Porter pleaded guilty in this courthouse and was banned from the NBA for life.³ It covers Chauncey Billups, a Hall of Fame player and head coach, arrested on the poker charges the same morning as Mr. Rozier. And it covers the two Cleveland Guardians pitchers accused of rigging pitches for bettors, whose trial is set to begin in this courthouse on November 2. That is *United States v. Clase de la Cruz*, the case the government recently submitted to this Court as supplemental authority. No. 25-CR-346 (KAM) (E.D.N.Y.). That trial will be in the news in the lead up to our venire being summoned.

A questionnaire will also save time. With written answers in hand, the parties can agree on hardship and cause excusals and leave oral voir dire for targeted follow-up.

Questionnaires are used in this district on facts less compelling than ours. Judge Vitaliano granted the defense request for a **20-page** written questionnaire in *United States v. Dervishaj*, No. 13-CR-668, 2015 WL 3794803, at *2 (E.D.N.Y. June 17, 2015), recognizing that a questionnaire is an effective aid to voir dire where a large venire must be screened or where there has been extensive pretrial publicity. Judge Donnelly adopted a **24-page** questionnaire in *United States v. Kelly*, No. 19-CR-286 (AMD), ECF No. 115. Judge Garaufis directed the parties to submit one in *United States v. Ranieri*, No. 18-CR-204 (NGG), ECF No. 136, 491 (the government’s proposed questionnaire, which was “largely agreed upon” by the parties was **37 pages**). Judge Kuntz ordered one in *United States v. Brown* and *United States v. Agoro*, Nos. 20-CR-293 and 21-CR-166 (WFK), summoning 250 prospective jurors to complete questionnaires several days before in-person voir dire. The government’s proposed questionnaire in *Brown* was **28 pages**. ECF 432. And Judge Cogan entered one in *United States v. Sun*, No. 24-CR-346 (BMC), ECF Nos. 175, 177 (E.D.N.Y.

³ Aaron Katersky, *Former Toronto Raptors Player Jontay Porter Pleads Guilty to Illegal Betting*, ABC News (July 10, 2024), <https://6abc.com/post/former-toronto-raptors-player-jontay-porter-set-plead/15048617/>.

Sept. 18 and 19, 2025), adopting the nine-page instrument the parties jointly proposed at ECF No. 162.

The practice is the same in the Southern District. Judge Nathan ordered a screening questionnaire in *United States v. Maxwell*, No. 20-CR-330 (AJN), ECF No. 364, expressly citing the publicity the case had generated and the nature of the charges. The court's draft questionnaire was **28 pages**. ECF 365. Judge Subramanian used a **17-page** questionnaire in *United States v. Combs*, No. 24-CR-542 (AS), ECF Nos. 225, 300, 315, where the government submitted a proposed questionnaire of its own. And Judge Abrams used an **11-pager** in *United States v. Ortega*, No. 22-CR-91 (RA), ECF No. 115. The Second Circuit has approved the practice. See *United States v. Quinones*, 511 F.3d 289, 299-300 (2d Cir. 2007) (explaining that a written questionnaire used for preliminary screening "falls well within the district court's broad discretion in conducting voir dire"). So did the Supreme Court in *Skilling v. United States*, where the district court screened the venire with a **14-page (including 77 questions)** written questionnaire before oral voir dire. 561 U.S. 358, 371-72, 388-89 (2010) (noting that the questionnaire helped identify jurors excusable for cause and served as a "springboard for further questions" during voir dire).

Here, **the defense seeks only a one-page questionnaire**, a modest request compared with the substantially longer questionnaires courts in this Circuit have routinely used. That single page will tell the Court what each prospective juror has seen and heard about this case and whether the juror brings personal experience with gambling into the courtroom, giving the Court a useful starting point for voir dire with little burden on prospective jurors.

We respectfully ask the Court to adopt the attached questionnaire, or to direct the parties to confer and submit an agreed version by a date the Court sets. Jurors can complete it on the morning of jury selection or, if the Court prefers, a few days earlier, as in *Brown* and *Agoro*. We have conferred with the government, and it opposes the request.

Respectfully submitted,

/s/ David Oscar Markus

David Oscar Markus

Margot Moss

Lauren Krasnoff

NAME (Please print): _____

TO PROSPECTIVE JURORS

This questionnaire is designed to obtain information from you with respect to your qualifications to sit as a juror in this case. By the use of the questionnaire, the process of jury selection will be shortened. Please respond to the following questions as completely as possible. The information contained within the questionnaire will become part of the Court's permanent record, but it will not be distributed to anyone except the attorneys in the case and the judge. During the questioning by the attorneys, you will be given an opportunity to explain or expand any answers, if necessary. If for any reason you do not want to answer any of the questions asked, please write the word, 'PRIVATE', next to the question and we will take this matter up with you in private.

This questionnaire is part of the jury selection process. The questions must be answered by you under penalty of perjury. You should fill out this questionnaire by yourself without consulting any other person. If you wish to make further comments regarding any of your answers, please use the Explanation Page at the end of the questionnaire to do so. Remember to indicate the number of the question you are answering.

You are instructed not to seek out, read, or research about the parties in this case. Specifically, you must not do any research using AI or any internet search engine (e.g., Google, Yahoo!, Bing, etc.), message boards, chat rooms, blogs, or social media (e.g., Facebook, Twitter, Instagram, etc.). Do not read any articles in the newspaper, online, or on any app on a mobile device, and do not listen to any news reports on the radio, television, or podcasts. If any juror does such research, this would be jury misconduct, all of our time and effort will have been wasted, and it will be necessary to start this process all over again. Furthermore, if a juror violates this Order from the Court, the juror will be subjected to Contempt of Court charges, punishable by a fine and/or jail time.

If you do not understand a question, please write, "I DO NOT UNDERSTAND", and the question will be explained to you in Court. **PLEASE REALIZE THERE ARE NO RIGHT OR WRONG ANSWERS – JUST HONEST ONES.**

This trial is expected to last approximately _____ days. A trial of this length is a hardship to almost every juror. Can you make the sacrifice and serve as a juror, or do you have an extraordinary hardship that you want to bring to the Court's attention?

☐ YES, I can serve as a juror. ☐ NO, I can't serve as a juror and the reason is because:

REGARDLESS OF YOUR ANSWER, PLEASE COMPLETE THE REST OF THIS QUESTIONNAIRE.

Your answers to this questionnaire will be held confidential by the Court and will only be used during jury selection in this case.

NAME: _____

1. How far did you go in school? If college, please list degree(s) and field(s) of study: _____

2. What jobs have you held in the past? _____
3. Have you, any family members, or close friends ever worked for, or donated time or money to, the FBI, the U.S. Attorney's Office, or any other law enforcement agency? ☐ YES ☐ NO If **YES**, please explain: _____

4. How closely do you follow professional basketball? ☐ Very closely ☐ Somewhat closely ☐ Not closely ☐ Not at all
5. Which professional basketball team is your favorite or you think of as "your" team? _____
6. What is your opinion of legalized sports betting and the companies that offer it? _____

- A. Have you or anyone close to you ever placed a bet on a sporting event, either in person, online, or through an app? ☐ YES ☐ NO If **YES**: Have you/this person ever placed a bet on an individual player? ☐ YES ☐ NO
7. Has gambling of any kind ever caused financial, family, or personal problems for you or anyone close to you? ☐ YES ☐ NO If **YES**, please explain: _____

- A. Would this experience cause you to be unable to be a completely fair and impartial juror in a case about gambling allegations? ☐ YES ☐ NO
8. Have you heard, read, or seen any news reports or social media posts about gambling allegations against professional athletes, including Terry Rozier? ☐ YES ☐ NO If **YES**, what do you remember hearing, reading, and/or seeing? _____

9. Have you formed any opinions about the case against Terry Rozier based on anything you have read or seen? _____

10. Do you know anyone who has ever been falsely accused of a crime? ☐ YES ☐ NO If **YES**, please explain: _____

11. If you have ever served as a juror in a **Criminal** case:
 - A. What type(s) of criminal case(s)? _____
 - B. What was the jury's verdict in that case? _____
 - C. Were you the foreperson? ☐ YES ☐ NO
12. Please list three words to describe yourself: a. _____ b. _____ c. _____
13. Which of the following is your usual source for national news? Select all that apply: ☐ CNN ☐ FOX ☐ MSNBC ☐ Network stations (ABC, CBS, NBC) ☐ Newsmax ☐ OAN ☐ Social media: _____ ☐ Other: _____
14. Please list the 3 people you admire *most*: a. _____ b. _____ c. _____
15. Please list the 3 people you admire *least*: a. _____ b. _____ c. _____
16. Is there any other information that you have not included above that you believe would impact your ability to be a fair and impartial juror in this case? ☐ YES ☐ NO If **YES**, please explain: _____

EXPLANATION PAGE