

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,	)	
	)	DEFENDANT ANTON JOSEPH
Plaintiff,	)	LAZZARO’S REPLY TO THE
	)	GOVERNMENT’S RESPONSE IN
vs.	)	OPPOSITION TO HIS MOTION FOR A
	)	NEW TRIAL BASED ON JUROR
Anton Joseph Lazzaro,	)	MISCONDUCT
	)	
Defendant.	)	Crim. No. 21-173 (PJS/DTS)

* * *

The Government again erroneously lumps the overwhelming evidence of Juror No. 45’s¹ bias into a category it labels as “political views” and then asserts that the jurors were not asked about their political views. Gov’t Response at 6-7. Nothing could be further from the truth. During voir dire, the Court very specifically asked the juror whether she had *any* beliefs that would interfere with her ability to serve as a juror and whether there was *any* reason she might have trouble being fair and impartial:

Do you have any religious or moral or philosophical beliefs, *or any other kinds of beliefs*, that might interfere with your ability to serve as a juror in this case?

PROSPECTIVE JUROR 45: No.

THE COURT: *Is there any reason* you can think of why, if you were to be selected for the jury, you might have trouble being a fair and impartial juror?

¹ For stylistic simplicity, Juror No. 45 will hereinafter be referred to as “the Juror.”

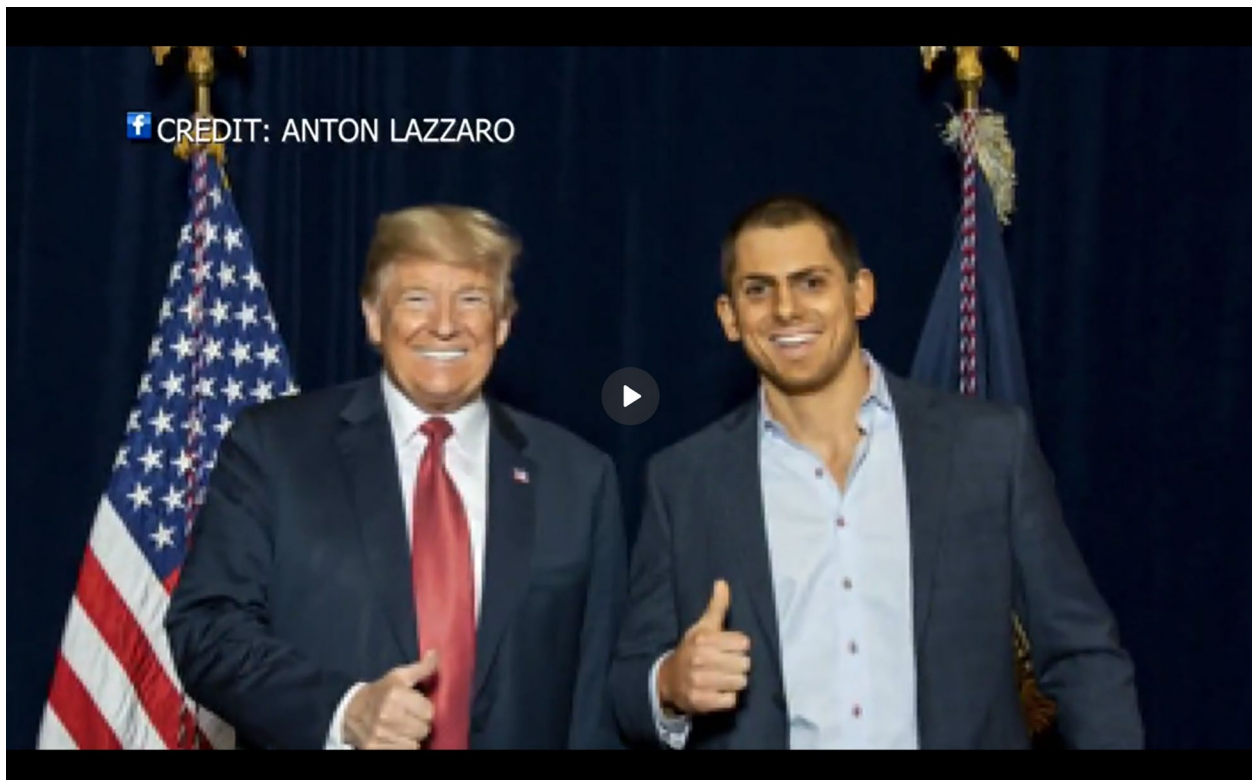
PROSPECTIVE JUROR 45: No.

Voir Dire Transcript, R. Doc. 387, at 226. No reasonable person could have concluded that “any belief” failed to include political beliefs, or that “any reason” excluded reasons based on politics.

The Government Response follows up that nonstarter with a completely preposterous assertion that there is no reason to believe that the Juror “would have understood [Lazzaro] to be a ‘follower’ of the President,” either at the time of voir dire or even after having heard all the evidence at trial. Gov’t Response at 8-9. During the trial, of course, the references to Lazzaro’s association with and support for President Trump were frequently elicited by the Government, and often while showing a witness the portrait of Mr. Lazzaro and the President posing for a picture. *See* Tr., Vol. I, at 29 (“His walls were covered with photos of the defendant with celebrities, rich and powerful people. Politicians, athletes, rock stars, even the President.”); Tr., Vol. I, at 166 (“Q. Okay. I’ll move to the second page of the exhibit. And what do we see here, Emily? A. Pictures of Tony with -- on the news or with some prominent people, such as Trump.”); Tr., Vol. II, at 324 (“Q. And what are you telling her has happened? A. That I had sex with one of Donald Trump’s friends.”); Tr., Vol. III, at 616 (“I remember he had a picture of Trump too, and we kind of asked about him, and he kind of said he worked with him in a way, I believe.”); Tr., Vol. III, at 681 (“Q. These images, did you know who was in the images or did

Mr. Lazzaro tell you? A. No. I only knew one of them. Q. And who was that? A. Donald Trump.”); Tr., Vol. IV, at 908 (“A. I thought he was -- I could tell he was rich and I could tell he was probably high profile because he had a picture next to the President at the time.”); Tr., Vol. VIII, at 1587 (“The defendant, Anton Lazzaro, seemed like he had it all. He was wealthy, a successful businessman, a man who hung out with celebrities, politicians.”).

The Juror also had told the Court during voir dire that she had seen the news about the case that very day. That newscast – found next to the story here: <https://www.cbsnews.com/minnesota/news/jury-selection-begins-in-trial-of-former-gop-strategist-anton-lazzaro/> – expressly linked Lazzaro to the President, including by showing the same photograph of Lazzaro posing with Trump:



Notably, the Government Response appears to concede that the Juror's assertion about all of Trump's followers being sexual predators and felons demonstrates clear bias and prejudice. Its arguments focus rather on speculation about when the Juror began to embrace this view, even suggesting that the trial itself might have been formed the basis for this belief. Gov't Response at 9-10. But that suggestion is as absurd as the proposition that one might become prejudiced against *all* persons of a particular religious or ethnic group based on contact with a single member of the group. Ultimately, the answer to the question posed by the Government can only be ascertained through the evidentiary hearing requested by this motion.

As for the Juror's express bias in favor of the testimony of women ("Believe All Women"), the Government maladroitly attempts to frame the declaration as merely an adopted political slogan of ambiguous meaning, and claims that "[t]he defendant has provided no evidence the juror's use of a slogan had anything to do with her views about impartiality in a courtroom setting." To the contrary, it is the Government that has provided no evidence that the Juror was merely borrowing a "slogan" with indefinable "nuances." The posting speaks for itself: it is a directive to believe all women. Taken at face value, there is nothing about the statement, or about the Juror's posting of the statement, that suggests anything other than a firmly held belief that all women are to be believed – whether on the witness stand or

anywhere else. It is a straightforward, unambiguous assertion that women must be believed. In the context of this case – accusing a young male of the sex-trafficking of young women – it is an *express* admission of bias, pure and simple. And as the Eighth Circuit has made clear, in this type of motion, “[t]he focus is on bias.” *United States v. Tucker*, 137 F.3d 1016, 1026 n. 7 (8th Cir. 1998).

That actual bias and the Juror’s deception about that bias are facially obvious in this case after consideration of the entire collection of newly discovered evidence. That collective evidence of actual bias is more than sufficient to overcome the “high hurdle” of establishing juror partiality referenced by the Eighth Circuit in *United States v. Needham*, 852 F.3d 830, 839 (8th Cir. 2017), and relied on so heavily by the Government in its response. *See* Gov’t Response at 11. Indeed, the “Believe All Women” declaration, by itself, is literally a profession of the Juror’s inability to be impartial in a trial pitting the credibility of a male defendant against the credibility of his female accusers.

Even if the bias were not express, implicit bias is sufficient to grant a hearing on the relief requested. The Government explicitly acknowledged that alternative standard in its response, noting that juror bias “may be implied” . . . where the relationship between a prospective juror and some aspect of the litigation makes it highly unlikely that the average person could remain impartial” despite their protestations to the contrary. Gov’t Response at 11. The Government’s analysis

ignored that standard entirely, however, suggesting that a juror's statement in voir dire that she could be impartial overcomes the presumption. *Id.* at 11-12. Nothing could be further from the truth.

The Eighth Circuit just this year revisited the issue and confirmed that “[s]ince [*Smith v. Phillips*, 455 U.S. 209, 215 (1982)], we have permitted implied bias arguments.” *United States v. Davis*, 126 F.4th 610, 618 (8th Cir. 2025). Indeed, it has been the law of this Circuit for decades that “bias may be found either by an express admission, or by proof of specific facts which show such a close connection to the facts at trial that bias is presumed.” *Fuller v. Bowersox*, 202 F.3d 1053, 1056 (8th Cir. 2000). “Implied bias is presumed as a matter of law where a typical person in the juror's position would be biased, irrespective of whether actual bias exists.” *United States v. Mensah*, 110 F.4th 510, 526 (2d Cir. 2024) (cleaned up). As framed by the Second Circuit twenty-five years before *Mensah*:

Implied or presumed bias is bias conclusively presumed as a matter of law. It is attributed to a prospective juror regardless of actual partiality. In contrast to the inquiry for actual bias, which focuses on whether the record at voir dire supports a finding that the juror was in fact partial, the issue for implied bias is whether an average person in the position of the juror in controversy would be prejudiced. And in determining whether a prospective juror is impliedly biased, *his statements upon voir dire about his ability to be impartial are totally irrelevant.*

United States v. Torres, 128 F.3d 38, 45 (2d Cir. 1997) (cleaned up, and emphasis added). In such cases, the Supreme Court “has long held that the remedy for

allegations of juror partiality is a hearing in which the defendant has the opportunity to prove actual bias.” *Smith v. Phillips*, 455 U.S. 209, 215 (1982). That is the remedy requested here if the Court concludes that a new trial cannot be granted without it. Rather than advancing an argument against that relief, the Government instead devoted pages of its response to its speculation about what the testimony at such a hearing might reveal. That is equivalent to an argument in favor of the hearing.

As for the supplemental evidence of the Juror’s responses to a digital survey, the Government has responded that the survey was “a targeted ruse to elicit information that could be used to undermine the juror’s service in court.” Gov’t Response at 17. That, of course, is true. But the ruse does not violate the “no-impeachment rule” set forth in Federal Rule of Evidence Rule 606(b), nor does it weaken the purpose of the rule, which is intended to protect the deliberative processes of the jury:

Allegations of juror misconduct must be supported by evidence that is not barred by Federal Rule of Evidence 606(b), which generally precludes the testimony of any juror regarding intrajury communications, as well as the testimony of a nonjuror regarding an intrajury statement, except where the testimony concerns extraneous prejudicial information and outside influences brought to bear on the jury.

United States v. Muhammad, 819 F.3d 1056, 1061 (8th Cir. 2016); see also *Tanner v. United States*, 483 U.S. 107, 120 (1987) (“If evidence thus secured could be thus used, the result would be to make what was intended to be a private deliberation, the

constant subject of public investigation—to the destruction of all frankness and freedom of discussion and conference”).²

The information elicited by the targeted ruse in this case does not serve to impeach the jury’s deliberations; it serves only to demonstrate the Juror’s dishonesty in responding to a material question on the juror questionnaire that was used during voir dire. The Government response is to suggest that maybe it was not a deliberate lie, or maybe circumstances have changed since the Juror supplied her answers on the juror questionnaire. These are reasonable hypotheses, and they easily can be put to rest in the evidentiary hearing requested by this motion. The digital survey is supplied herewith as a sealed exhibit to this Reply.

CONCLUSION

The Juror’s revelation of her belief that all followers of Trump are felons and sexual predators, her declaration that all women are to be believed, her lies about close friends and family who are victims of sexual-abuse and about her ability to be “very fair,” and her proclamation that she was one of the “lucky 12” on this jury, all

² Though not at issue here, the rule was the subject of scrutiny in a recent dissent by Justice Sotomayor from the denial of certiorari in a death penalty case. Her concern was that “[a]pplying the no-impeachment rule too reflexively and restrictively risks a systemic loss of confidence in jury verdicts, a confidence that is a central premise of the Sixth Amendment trial right. *Humphreys v. Emmons*, No. 24-826, 2025 WL 2906475, at *4 (U.S. Oct. 14, 2025).

compel the conclusion that bias and partiality deprived Mr. Lazzaro of the fair trial guaranteed by the Constitution:

In essence, the right to jury trial guarantees to the criminally accused a fair trial by a panel of impartial, ‘indifferent’ jurors. The failure to accord an accused a fair hearing violates even the minimal standards of due process. A fair trial in a fair tribunal is a basic requirement of due process.

Irvin v. Dowd, 366 U.S. 717, 722 (1961).

For all the foregoing reasons, Mr. Lazzaro reiterates his request for a new trial based on juror misconduct, and for an evidentiary hearing in support of the same.

Dated: 3 November 2025

Respectfully submitted,

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