

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

v.

[1] JULIA BEATRICE KELEHER,
[2] ARIEL GUTIERREZ-RODRIGUEZ,
Defendants.

Criminal No. 20-19 (FAB)

**MOTION *IN LIMINE* SEEKING TO PRECLUDE COUNSEL FROM IMPROPERLY
DEFINING THE SELF-EVIDENT CONCEPT OF REASONABLE DOUBT**

As First Circuit Pattern Jury Instruction 3.02 (hereafter “Instruction 3.02”) makes clear, “[i]t is a cardinal principle of our system of justice that every person accused of a crime is presumed to be innocent unless and until his or her guilt is established beyond a reasonable doubt.” Instruction 3.02 entrusts *jurors* to decide what constitutes a reasonable doubt. And for good reason—“[r]easonable doubt is a fundamental concept that does not easily lend itself to refinement or definition.” *See United States v. Vavlitis*, 9 F.3d 206, 212 (1st Cir. 1993); *see also United States v. Cassiere*, 4 F.3d 1006, 1024 (1st Cir. 1993) (“[A]n instruction which uses the words reasonable doubt without further definition *adequately apprises the jury of the proper burden of proof.*”) (quoting *United States v. Olmstead*, 832 F.2d 642, 646 (1st Cir. 1987)) (emphasis added); *United States v. Herman*, 848 F.3d 55, 57 (1st Cir. 2017) (“[W]e have repeatedly noted that reasonable doubt does not require definition.”) (citation and internal quotation marks omitted).

The United States respectfully submits that Instruction 3.02 adequately informs jurors of the standard the United States must satisfy to prove the defendants’ guilt. Consequently, any effort on the part of counsel to define “reasonable doubt” in a numerically quantifiable way, or by reference to visual demonstrations purporting to depict the crossing of the reasonable doubt

threshold, would be improper. *See United States v. Van Anh*, 523 F.3d 43, 58-59 (1st Cir. 2008) (observing that the First Circuit Court of Appeals has, “in the past, warned against attempts to define reasonable doubt noting that such attempts often result in further obfuscation of the concept.”) (citation and internal quotation marks omitted).

To be sure, there is no dispute that the defendants are entitled to put the United States to its burden of proof. In so doing, they may attempt to expose the weaknesses they perceive to exist in the case for the sake of arguing that the United States has failed to prove their guilt beyond a reasonable doubt. The defendants may not, however, give the jury a definition of reasonable doubt that the Court has not endorsed, and then argue that the United States has failed to prove their guilt under that definition. *See United States v. Thompson*, 117 F.3d 1033, 1035 (7th Cir. 1997) (“The law is clear in this circuit that it is improper for attorneys to attempt to define the term [reasonable doubt]”).

Put simply, Instruction 3.01 accurately conveys that the United States must prove the defendants’ guilt beyond a reasonable doubt, a term that “has a self-evident meaning comprehensible to the lay juror.” *United States v. Fields*, 660 F.3d 95, 97 (1st Cir. 2011) (citation omitted). Accordingly, the Court should preclude counsel from defining for the jury the self-evident concept of reasonable doubt.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 6th day of March, 2020.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 6, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Alexander L. Alum

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Assistant United States Attorney