

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

VANESSA COLE,
As Personal Representative of the Estate of Roy
Lee Richards Jr.

PLAINTIFF

v.

No. 4:17-cv-553-DPM

DENNIS HUTCHINS

DEFENDANT

ORDER

1. Cole's renewed motions *in limine* are partly granted without objection and partly denied. Here are the Court's rulings.

- **Comparative Fault**

Granted without objection.

- **The Rule**

Granted without objection.

- **Uniformed Police Officers**

Denied. The Court will not limit the number of uniformed police officers in the gallery.

- **Police Officers Appearing with Weapons**

Granted without objection.

- **Personal Finances**

Granted for the liability phase and denied for the damages phase if a claim for punitives survives.

- **Roy Richards Jr.'s Criminal History**

Granted without objection.

- **Referring to Cole's Lawyer as an "Out of State Attorney"**

Granted without objection.

- **Hutchins's Military Background & SWAT Training**

Partly granted and partly denied. Hutchins's military experience and SWAT training are relevant background. FED. R. EVID. 401. The Court sees no unfair prejudice in limited testimony about these things. But there's no need to cover Hutchins's military service with lots of details. Stick to general points. Evidence about the broken-back/no deadly force incident is excluded. It has limited relevance and would distract the jury from the issues here. FED. R. EVID. 403.

2. A couple of weeks ago, the Court overlooked the undecided motions *in limine* and thus reinstated them at Cole's helpful request. *Doc. 90 & 91*. The Court did not reopen the time for filing evidentiary motions or authorize new motions *in limine*. Cole's new motions are therefore denied without prejudice. The Court directs counsel to confer on these issues, if they've not already done so, and try to reach agreement. The Court will resolve any remaining disagreement at the pretrial or during the trial.

3. The Court notes and appreciates Cole's thoughts about and objections to the draft jury instructions. Those objections are partly sustained, partly sustained as modified, and partly overruled. The

attached global redline (A) shows the changes adopted. The *voir dire* and preliminary instructions (B) are locked in. We will work all on the current drafts of the final instructions and verdicts (C) for all phases during the trial. In particular, the Court is still considering the available elements of compensatory damages (No. 12) and the elements for excessive force (No. 10). The Court will complete its research and refine these with the parties' help.

* * *

Renewed motions in limine, *Doc. 68 & 69*, are partly granted and partly denied. Objections, *Doc. 97 & 98*, partly sustained, partly sustained as modified, and partly overruled. New motions *in limine*, *Doc. 100, 102, 104, & 106*, denied without prejudice and with directions. See Attachments (A), (B), and (C).

So Ordered.

DP Marshall Jr.

D.P. Marshall Jr.
United States District Judge

19 July 2021