

Voir Dire: James J. Davis v. Ashton, et al., 15-cv-268-slc

Statement of the case. Plaintiff James J. Davis currently is a prisoner at the Waupun Correctional Institution in Waupun, Wisconsin, but his claims in this lawsuit stem from events that took place while he was incarcerated at Columbia Correctional Institution in Portage, Wisconsin. The defendants all are Wisconsin Department of Corrections employees who worked at Columbia during the relevant time period. They are: Sandra Ashton, Ronald Swenson, Tracy Kopfhamer, Michael Rataczak, Theodore Anderson, Kevin Pitzen, Randy Schneider, and Philip Kerch.

Plaintiff is proceeding to trial on First and Eighth Amendment claims against these defendants. First, plaintiff claims that Ashton issued retaliatory conduct reports against him in violation of the First Amendment. Second, plaintiff claims that on October 29, 2013, Ashton, Swenson, Kopfhamer, and Rataczak used excessive force in violation of the Eighth Amendment when they conducted a cell extraction. Third, plaintiff claims that, also on October 29, 2013, defendants Anderson, Pitzen, and Schneider failed to intervene in violation of the Eighth Amendment when they saw the officers used excessive force against plaintiff but did nothing to stop it. Fourth, plaintiff claims that on October 29, 2013, Kerch acted with deliberate indifference to his serious medical needs in violation of the Eighth Amendment when he failed to treat plaintiff's injuries.

1. Have any of you heard of this case before today? Would this affect your ability to serve as an impartial juror in this case?
2. The trial of this case will continue today after we pick the jury, will last the rest of the day, all of tomorrow, and probably through the end of the day on Wednesday. Is there any one of you who would be actually unable to serve as a juror during this time?
3. Ask plaintiff to stand and introduce himself to the jury. Ask whether anyone knows the plaintiff.
4. Ask the assistant attorneys general to introduce themselves and the defendants. Ask whether anyone knows any of the lawyers or the defendants.

5. The following people may be called as witnesses. Do you know any of them?

David Melby
David Morgan
Hipolito Claudio Jr.
Richard Michael Arnold
Curtis Daniels
Robert Gant
Quenton Thompson
Nikko Krohn
Ryan Blount
Isaac Hart

6. Question to each prospective juror.

Name, age, and city or town of residence.

Marital status and number of children, if any.

Current occupation (former if retired).

Current (or former) occupation of your spouse or domestic partner and any adult children.

Any military service, including branch, rank and approximate date of discharge.

How far you went in school and major areas of study, if any.

Memberships in any groups or organizations.

Hobbies and leisure-time activities.

Favorite magazines, newspapers or other reading material.

Favorite types of television shows.

Websites you visit on a daily or weekly basis for work or leisure.

7. Do any of you know any of the other people in the jury box from before today?
8. Do any of you have strong opinions, positive or negative, about the Wisconsin Department of Justice or the Wisconsin Attorney General? [sidebar if necessary]
9. Have you read any online or print news stories regarding the Wisconsin Department of Corrections in the past two years? What articles? [sidebar if necessary]
10. Have any of you, a relative or a close friend ever been confined in a jail or prison? If so, please explain. [sidebar if necessary]
11. Have any of you ever visited a jail or prison?
12. Have any of you, a spouse or family member, or close friend ever worked in a jail, prison, or any other correctional setting? Please explain.
13. Does your job cause you to work with any law enforcement officer or agency?
14. Have any of you, a spouse or family member, or close friend ever been employed by or volunteered in any type of criminal defense work, at a public defender's office, a Legal Aid office, or with any type of support or advocacy group for those charged or convicted of crimes?
15. Have any of you or your immediate family members ever worked for the State of Wisconsin?
16. Have you or any of your family members or close friends ever had force used against them by a law enforcement officer or a correctional officer?
17. Do you have strong opinions about the use of force against convicted prisoners in correctional institutions?
18. Have any of you, a relative or a close friend ever been a victim of a crime?
19. Have any of you had a negative experience with a state employee or any law enforcement officer that would affect your ability to be impartial in this case?

20. Do any of you have strong opinions about the correctional system or about punishing criminals with imprisonment?
21. Do any of you believe that prisoners or criminals should not be able to file lawsuits or receive money damages if or when their constitutional rights are violated?
22. Would any of you judge the credibility of a witness who is a law enforcement or correctional officer differently from other witnesses simply because of his or her position?
23. Would any of you judge the credibility of a witness who is an inmate differently from other witnesses simply because he was an inmate?
24. Have any of you ever been a party to a lawsuit?

Have any of you ever been a witness in a lawsuit?

How many of you have served previously on a jury? Tell us when, where, the type of case, the verdict and whether you were the foreperson.

25. At the end of the case I will give you instructions that will govern your deliberations. You are required to follow those instructions, even if you do not agree with them. Is there any one of you who would be unable or unwilling to follow the instructions?
26. Do any of you have opinions, whether positive or negative, about people who go to court to obtain relief for wrongs they believe they have suffered?
27. Do you know of any reason whatsoever why you could not sit as a trial juror with absolute impartiality to all the parties in this case?

JUROR BACKGROUND INFORMATION

When asked to do so, please stand and provide this information about yourself:

Name, age, and city or town of residence.

Marital status and number of children, if any.

Current occupation (former if retired).

Current (or former) occupation of your spouse or domestic partner and any adult children.

Any military service, including branch, rank and approximate date of discharge.

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