

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

THE ESTATE OF TONY ROBINSON, JR., *ex rel.*
PERSONAL REPRESENTATIVE ANDREA
IRWIN,

Plaintiff,

v.

THE CITY OF MADISON, WISCONSIN, and
MATTHEW KENNY,

Defendants.

[DRAFT]
VOIR DIRE

15-cv-502-jdp

Introduction

This is a civil rights case that arises from events that occurred about two years ago. After a 911 call, Madison Police Officer Matthew Kenny was sent to a residence on the east side of Madison, where he encountered a young man named Tony Robinson. Exactly what happened is disputed, but Officer Kenny ended up shooting Mr. Robinson, and Mr. Robinson died. The plaintiff in this case is Mr. Robinson's mother, Andrea Irwin, as the personal representative of his estate. Plaintiff claims that Officer Kenny violated Mr. Robinson's constitutional rights by using excessive force. Officer Kenny denies using excessive force. He contends that Mr. Robinson attacked him and that his use of deadly force was reasonable.

I am going to ask you some questions that will help us select those of you who will serve on the jury in this case. I will follow up with some individual questions to get more details, and I'll ask some of the questions in confidence, at sidebar. If my questions touch on subjects that you don't want to discuss openly, let me know, and we'll bring you over to sidebar for those questions.

1. The trial of this case will begin today and will likely last five days, until Friday. Are any of you unable to serve as a juror during this time?

Knowledge of parties and others

2. Ask counsel to stand and tell the jury where they practice and with whom. Ask panel whether anyone knows counsel or their associates or partners.

3. Ask counsel to introduce the parties. Ask panel whether anyone knows any of the parties.
4. The witnesses in the case may include the following individuals. (Read list of witnesses.) Do any of you know any of the witnesses?
5. Do any of you know the judge or court personnel?
6. Do any of you know any of the other people on the jury panel?

Knowledge of the case

7. Have any of you ever heard of this case before today? Have you heard more than I described to you? Follow up confidentially.

Questions to each prospective juror (listed on a sheet provided to jurors):

Please stand up and tell us about yourself:

8. Name, age, and city or town of residence.
9. If you live in Madison, how long have you lived here?
10. Marital status and number of children, if any.
11. Current occupation (former if retired or currently unemployed).
12. Have you ever owned or managed a company?
13. Current (or former) occupation of your spouse or domestic partner.
14. If you have adult children, what do they do?
15. Any military service, including branch, rank, and approximate date of discharge.
16. How far you went in school and major areas of study, if any.
17. Memberships in any groups or organizations.
18. Hobbies and leisure-time activities.
19. Media consumption. What are your favorite types of reading materials, what sources do you use for news, what types of television or radio shows do you watch or listen to, what types of websites do you visit?

20. Have you ever written a letter to the editor in a newspaper or magazine?
21. Do you have any bumper stickers on your car? If so, what do they say or depict?

Litigation experience and opinions

22. Have you (or a close relative or friend) been a party to a lawsuit?
23. Have you ever been a witness in a lawsuit?
24. Have you served on a jury? Follow up: nature of the case; find for plaintiff or defendant; were you the foreperson?
25. Do you have strong opinions, whether positive or negative, about people who go to court to obtain relief for wrongs they believe they have suffered?

Case-specific knowledge and experience

26. The incident at issue in this case occurred in the 1100 block of Williamson Street, in Madison. Are you very familiar with this neighborhood?
27. Have you ever worked in law enforcement?
28. Have you had any strongly positive or strongly negative experiences with a law enforcement officer?
29. Have you witnessed any strongly positive or strongly negative experiences with a law enforcement officer?
30. Have you ever filed a complaint against a police officer?
31. Do you personally know a police officer who has been harmed or killed in the line of duty?
32. Do you personally know an individual who has been harmed or killed by a police officer?
33. Has a law enforcement officer ever used force against you?
34. Do you have any strong feelings, whether positive or negative, about the law enforcement department in your community?
35. Do you have any strong feelings, whether positive or negative, about the Madison Police Department?

36. Do you strong feelings, whether positive or negative, about law enforcement officers in general?
37. Would you tend to believe the testimony of a law enforcement officer more than the testimony of a civilian witness?
38. Do you believe that the police are unfairly criticized?
39. Do you have strong feelings, whether positive or negative, about people who use recreational drugs?
40. Would you find it especially difficult, for moral or philosophical reasons, to award money damages for something that cannot easily be quantified, like the loss of a life?

Conclusion

41. 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 my instructions?
42. 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?