

TRIAL 9.14(C):

Todd Wearl v. Dan Kinger

Instructions for the Person Playing the Role of Witness 1

Thank you for agreeing to play the role of a witness in our upcoming trial. Without volunteers like you, we could not conduct these trials and give the law students a realistic courtroom experience. We are very grateful for your participation.

Please read **ALL** of these instructions before viewing the videotape.

General Instructions for All Non-Participant Witnesses

Each person playing the role of a witness will watch a video of the incident. You will watch the assigned video only **once**, then testify based upon your recollection of what you saw and heard.

Once you watch the video once, we will pretend that the video ceases to exist. You are NOT allowed to watch it again. The student attorneys are NOT allowed to watch or even attempt to locate a copy of the video.

There are a few general instructions you should follow in watching the video clip. It is important for you to follow all of these instructions:

1. Please read ALL of this packet of instructions before viewing the video clip.
2. Before watching the video clip, be sure your computer is fully functioning, with the sound "on" at a reasonable level that you can hear. In other words, make sure the "mute" is NOT activated on your computer. You will want to watch and listen during your sole viewing of the video.
3. You will probably see cameras in the background. Please ignore these cameras. When you testify, pretend that you did not see them. [Thus, if a student attorney asks you if you saw anyone who was filming the incident, say "No."]
4. When you are sure you are ready for your only viewing of the

video (with sound fully functioning on your computer), click on Camera 1 at <https://bcove.video/2Pu9EK0>. It is very important for you to use the correct camera angle.

5. After you click on your camera angle, you will see and hear the short video depicting the incident that forms the basis of this lawsuit. After your one viewing of this video, please do not revisit this website.
6. You will probably see cameras in the background. Please ignore these cameras. When you testify, pretend that you did not see them. [Thus, if a student attorney asks you if you saw anyone who was filming the incident, say “No.”]
7. You might see people other than the three involved in the incident (as described below) in the background. As with cameras, please ignore persons other than the three of interest. [Thus, if a student attorney asks you if you saw anybody else who might have seen the incident, please say something like, “There might have been other people watching, but I really did not notice anyone.”]
8. Please assume that, after the events depicted in the video, you noticed that the police officer put handcuffs on the man he was interacting with in the video. At that point, you figured the situation was under control, so you went about your life without worrying about this anymore. You did not notice what happened to anyone after the man was handcuffed.

Here are some basic facts about the events depicted in the video you are going to watch:

1. These events took place in the city where you live, which we will call “University.”
2. The events took place outside the door to the Library/Museum building.
3. The north half of the building is the Museum portion. The south half is the Library portion. The door from which two of the three participants in the incident (one of the men in tee shirts and the police officer) exited is about half way between the Museum portion and the Library portion.
4. The diagram included with your instructions shows the outline of the Library/Museum Building. The outline is accurate.

5. The position where you were when you observed the events is identified by number 1 on the diagram.
6. These events took place at about 10:00 a.m. on August 14, [-1], meaning August 14 of the year before this one. [In other words, if you are reading these instructions in 2016, the events took place on August 14 of 2015.]

Here are some instructions that apply to your testimony in the case:

1. At the trial where you will testify, other volunteers will play the roles of the three participants in the incident in the video (the two men in civilian clothes and the police officer). The three people playing these roles at trial are NOT the people in the video.
2. This is NOT a case where identity is disputed. Each volunteer who plays the role of one of the three main participants will admit that he is the person that you saw. The student attorneys will not be allowed to question you regarding identifying characteristics of the three persons (such as hair color, eye color, height, weight, etc.).
3. To keep things straight, you might want to refer to the three people in the video as (a) the man in the white shirt; (b) the man in the red shirt; and (c) the police officer.
4. You should assume that you have never met or seen these three persons. [If you learn their names through some other means, you might refer to them by name. However, on the date you observed the events in the video, you did not know their names.]
5. To help you identify the three key participants at the trial, we will ask them to dress as follows:
 - a. The man who wore a white tee shirt in the event you saw will wear a white shirt and a blue tie at trial.
 - b. The man who wore a red tee shirt in the event you saw will wear red shirt (or a white shirt and a red tie) at trial.
 - c. The police officer will wear something to trial that identifies himself as a police officer.

Before the trial starts, you should meet briefly with the

student attorneys. They will point out the persons who will be playing the roles of the three participants, so you should have no trouble identifying any of them during the trial if you are asked to do so.

Special Instructions for You

In addition to the general instructions that apply to all of the volunteers playing witness roles, the following special instructions apply to you:

1. After you watch the videotape, the student attorney who asked you to volunteer to serve as a witness might ask you questions about what you observed. You should answer the attorney's questions to the best of your ability, based upon your viewing of the videotape.
2. The student attorneys who are opposing the student attorney who asked you to volunteer might try to speak to you about the events that you observed. Please ask the student attorney who asked you to volunteer what s/he would like you to do if the opposing attorneys ask you to voluntarily talk to them about the case.
3. The student attorneys who are opposing the student attorney who asked you to volunteer may wish to schedule your deposition. At a deposition, a witness swears (or affirms) to tell the truth, as at trial. The attorneys ask questions at a deposition and those questions and your answers are recorded and later transcribed in written form. Please cooperate in the scheduling of this deposition.
4. You will be yourself at the deposition and trial, except as noted in these instructions. You will not be pretending to be someone else. In other words, if you are Mary Smith, a 20 year-old college junior, you should identify yourself as "Mary Smith, a 20 year-old college junior." To the extent possible, answer all questions based upon your identity and background.
5. These events happened in the city where you live. We will be calling that city "University." But do your best to convert your living circumstances to that city. If you live on the second floor of an apartment building, please testify, if asked, that you "live on the second floor of an apartment building here in University."

6. You should assume that the town where you live, "University," has a Library/Museum complex in the downtown area. The diagram in these instructions accurately depicts the (somewhat unusually shaped) exterior of the building.
7. This incident happened on August 14, [-1], at 10:00 a.m., just outside the Library/Museum building. You were at location 1 on the enclosed diagram.
8. Please think of some reason why you were at the library or the museum that morning. Have this reason firmly in mind before you watch the video, and before you talk to any of the attorneys in the case about what you observed. The attorneys will almost certainly ask you why you were at the Library/Museum building that morning. Just have some reason in mind, and stick with that reason throughout the proceedings.
9. Please assume the following regarding your visit to the library or the museum that morning: Just before 10:00 a.m., you had to make a call on your cell phone. You did not want to make the call in the building, because that is rude. So you stepped into the courtyard outside the building, to location 1 on the diagram, to make your call.
10. **Please make an actual cell phone call as you watch your video.** [This is admittedly a bit unusual, so you might have to arrange this in advance with the person you will be calling.]
11. Your cell phone call should be going on while you watch the video. Obviously, this will distract you, so you might not be able to hear everything that is said, but that is the point. Please pretend that you are in location 1, making a cell phone call, and you see this incident break out. Almost certainly, you would mention this to the person at the other end of the call (as in something like "You won't believe what is happening here. Some guy just"), so feel free to do that. But the person on the other end should play along, so there should be some other reason for the call, like arranging to meet the person to go to a movie, for lunch, etc.
12. Please do the best you can in testifying based on your observation of these events. We do not expect you to remember everything, of course, so do not worry if you do not. All we ask for is your best effort to try to remember what you observed.

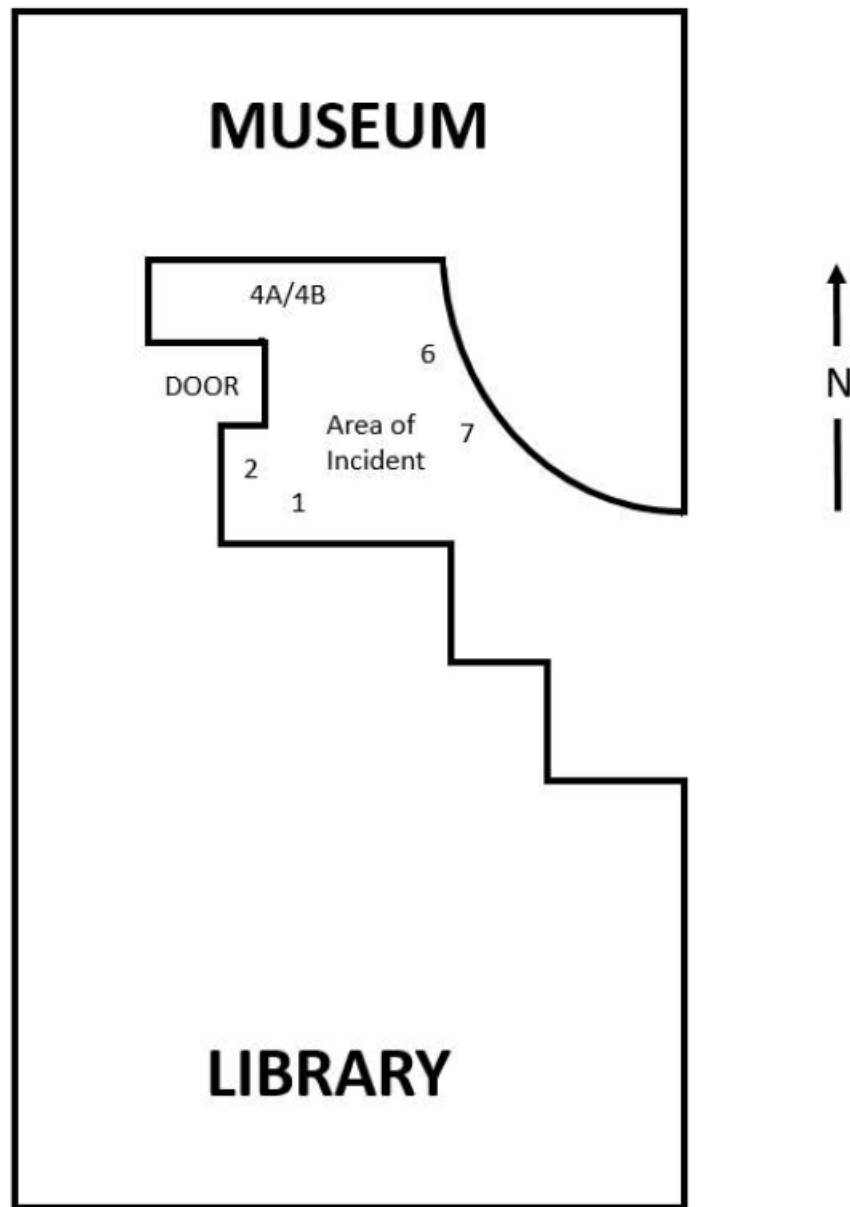


DIAGRAM OF LIBRARY/MUSEUM BUILDING

[Note: Some of the numbers show the approximate locations of witnesses.]