

IOWA DISTRICT COURT FOR WORTH COUNTY

STATE OF IOWA)	FECR009623
)	
vs.)	ORDER granting motion
)	to strike jury panel
TYRONE ROBIN WASHINGTON, JR.,)	
Defendant.)	

On May 12, the defendant renewed his statutory challenge to the jury panel and also asserted a constitutional challenge to the panel based on the fair cross section requirements of the Sixth Amendment to the U.S. Constitution (as incorporated by the 14th Amendment), and the Iowa Constitution Article I, Section 10. He renewed his request to strike the jury panel. The matter was heard outside the presence of the jury panel and before the panel was sworn. The state appeared by Laura Roan and Tyler Smith. The defendant appeared personally and by Charles Kenville and Jason Carlstrom. This order enters to confirm my oral ruling made on May 12.

In my ruling of May 11, I found a departure from the statutory framework for the assembly of jury panels in Webster County. I further found that the departure was not material in that the defendant had not met his burden on the third prong of the test for establishment of a prima facie case showing prejudice.

We are now in a different place. The jury panel was fully assembled, and all questionnaires were completed. Of the 117 questionnaires submitted and the 95 panel members checked in, there was no person of African-American, black, mixed racial, or other non-white origin.¹ From a population that is approximately 4% African American and 10% non-white, that result could arise from standard deviation. But the sample pools previously presented by the defendant show that underrepresentation is consistent. Using typical means of analysis, the defendant fails to show an absolute disparity, but the court recognizes that no distinctive group will be able to meet that burden in Iowa. Comparative disparity varies amongst the various sample pools, but all of them show some comparative disparity. And the comparative disparity of this jury panel is 100%. And there is now additional evidence of departure from statutory requirements. Primarily, the system of jury impaneling has drifted from the provisions of Chapter 607A because reliance on centralized electronic control of source lists and production of master lists has led to a corresponding deterioration of local and particularized oversight over time.

The evidence presented has now crossed the line for me. There is no action or inaction being taken by the clerk's office or court administration that is intended to exclude racial minorities or that this court can individually identify as causing underrepresentation. But there is sufficient departure from statutory requirements and sufficient resulting

¹ Except one panel member who identifies as white and Native American.

prejudice to find the departure to be material.² I sustain the challenge and grant the defendant's motion to strike the jury panel. The panel is discharged.

The matter shall be reset for trial beginning **July 7, 2015, at 9:00 a.m.** in the main courtroom of the Webster County Clerk of Court in Fort Dodge, Iowa. The Webster County Clerk of Court shall summon a new panel of potential jurors. The Worth County Sheriff shall provide transportation of the defendant for trial. Pretrial conference, if necessary, shall be scheduled by separate order after consultation with the parties.

Copies to:

Laura Roan for the state

Tyler Smith for the state

Jeffrey Greve for the state

Charles Kenville for the defendant

Jason Carlstrom for the defendant

Matt Bradley, district 2A media coordinator

Peggy Senzarino, on-site media coordinator

Webster County Clerk of Court

Kelly Heard, 2A case coordinator

Kellie Orres, 2B case coordinator

Worth County Sheriff

² A substantial underrepresentation establishes a prima facie case, and the state's evidence does not overcome it.



State of Iowa Courts

Type: OTHER ORDER

Case Number **Case Title**
FECR009623 (CDW) STATE VS WASHINGTON, TYRONE ROBIN JR.

So Ordered

A handwritten signature in black ink, appearing to read 'Colleen Weiland'. The signature is written in a cursive style.

Colleen Weiland, District Court Judge,
Second Judicial District of Iowa