

JURY DUTY

By Reg P. Wydeven
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The comedy *Jury Duty* was a silly movie starring Pauly Shore that poked fun at the civic responsibility of twelve peers deciding legal disputes. Released on the heels of the O.J. Simpson trial, the film depicted a group of oddballs deliberating in another murder case, with one juror being zanier than the next.

But not even Pauly Shore could have dreamt up the cast of characters that made up what Tennessee defense attorney Leslie Ballin described as the “jury pool from hell.” Ballin’s client was arrested in a trailer park after allegedly hitting her brother’s girlfriend in the face with a brick.

During jury selection, one prospective juror admitted he should probably not be on the jury, stating that, “In my neighborhood, everyone knows that if you get Mr. Ballin (as your lawyer), you’re probably guilty.” Another admitted that he had been arrested and taken to a mental hospital after he almost shot his nephew because he would not come out from under the bed.

One potential juror explained that because of past alcohol problems, he was arrested for soliciting sex from an undercover police officer. The man confessed that he should have known better because the officer posing as a prostitute “had all her teeth.”

Finally, one possible juror simply stood up and left, proclaiming, “I’m on morphine and I’m higher than a kite.” When a jury was eventually selected, they found Ballin’s client not guilty.

Because some jurors are occasionally bizarre and because their verdicts are sometimes equally vexing, California attorney Joseph Cavallo is planning to hire one or more jurors that served on the jury in the gang-rape trial of his client, which ended in a mistrial. The former jurors will be “trial consultants” for the retrial and will rate the witnesses, help with jury selection and review the strengths and weaknesses of Cavallo’s case.

Cavallo claims that hiring the former jurors is a natural extension of the techniques many trial attorneys use to prepare for court. Many attorneys use focus groups that consist of people who represent the anticipated ethnic and class makeup of the real trial jury to test out strategy. Another common technique is using “shadow juries,” which are groups of people hired by the attorneys to sit in a trial and fill out daily questionnaires during the hearings regarding how they perceive the trial is going. Many attorneys will also ask jurors for feedback once a trial has concluded.

Cavallo explained that the opportunity to hire previous jurors for a retrial is extremely rare, so he would be foolish to not take advantage of the situation. Secondly, because they are employed by Cavallo, the former jurors are prevented from speaking to prosecutors without his permission.

Critics of Cavallo’s employment of the former jurors quickly point out that this practice may undermine the integrity of juries’ decision making ability. These critics fear that jurors may not use their best efforts to come to a decision if they know there is a possibility they will be paid later if there is a hung jury. While attorneys realize the chances of a trial resulting in a hung jury and then later being retried is very slim, however, they fear jurors may not know those odds.

Needless to say, the jurors Leslie Ballin encountered in Tennessee will not be on his payroll anytime soon.