

The Jailed Juror

by {ga=ejgoodman}

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Ask any American about citizen participation in democracy, and you will probably hear, "the right to vote, the right to trial by jury." Yet, only about one-half of those eligible to vote in the United States appear at the polls. Since voting is purely voluntary, there are no penalties for election no-shows. And while we take "a jury of our peers" for granted, avoiding jury duty is one of the biggest games in town. But failure to fulfill this obligation can, like failure to pay taxes, carry serious consequences.

Here is what happened in a recent Manhattan case, now entitled *In the Matter of Punishing James Pringle for a Criminal Contempt, Pursuant to Judiciary Law*.

When Criminal Court Judge Edward J. McLaughlin, sitting in New York State Supreme Court, discovered that a potential juror for a drug case had left at the end of his third day awaiting voir dire questioning, and did not return the next day, he declared him AWOL. Finding him in contempt of court, the judge ordered any peace officer or sheriff to take James Pringle, 28, into custody. Pringle, a commodity exchange employee, and a part-time college student, was sentenced to four days in civil jail. "Citizens who purposely evade being selected for a jury represent a serious threat to the administration of justice," said the Judge.

According to Judge McLaughlin's 14 page Opinion and Order of Commitment, Pringle reported to 100 Centre Street on November 29, 2004, after three postponements of jury service. He was in a panel sent for jury selection for a trial which was expected to run five or six weeks, longer than most. Pringle had asked to be excused because of his job and his school schedules, but his request was denied by the judge since he would continue to receive his salary, and because his classes were at night.

During the time Pringle was in court, Judge McLaughlin instructed the entire jury panel about the importance of jury service, likening it to military service, emphasizing that "someone could not be excused for personal convenience." After a number of selections had been made, a group of potential jurors, including Pringle, was directed to return the next day for their turn to be questioned as to their suitability for this particular case. However, James Pringle did not answer when his name was called; he did not appear at all on the fourth day. A jury was selected, sworn and the trial began. This may have ended the matter for James Pringle, but not for the judge.

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Judge McLaughlin wrote to Pringle, stating that he had been absent from court, "without permission," but that the court would give him an opportunity to explain his absence in writing by fax or by appearing personally in the courthouse. When neither an explanation nor Mr. Pringle arrived, Judge McLaughlin called his home and spoke with his mother. The next day, a faxed explanation arrived in which Pringle detailed his various appearances in Judge McLaughlin's courtroom the previous week, and said that he had left to go home to get his books, go to the library and write a paper. During a phone conversation with the court clerk, Pringle agreed to appear in court the following week.

Questioned by the Judge, Pringle admitted that he had left and not returned to the court. But he said that was due to his night school obligations, and his belief that the jury composition had been completed. "So, I told you I have classes, I have finals this coming week and next week and I had to be at the library like around 6:00, it was going on 5:00," Pringle said. He also said he hadn't heard the directive to return the next day and had assumed that he was finished because he had been there three days, and in his prior jury experience, three days was all that was expected. (Several people familiar with the jury selection process, agreed that potential jurors are told in the Central Jury Room that if they are not picked in three days, they are excused.)

The court nevertheless ordered Pringle to show cause why he should not be held in contempt. He was told to bring a lawyer. Pringle and his lawyer, Robert L. Sims, Jr., appeared and produced a recently received "Certificate of Jury Service" to prove that he had completed his jury service. "Why did I receive this if I didn't serve?" Pringle asked the judge. He did, however, write a letter of apology, stating that he was willing to serve on a jury, but the court continued with the contempt proceeding.

The court found, "beyond a reasonable doubt, that respondent's refusal to appear in Court on December 2, 2004, is criminal. It is also an insult both to those who appeared for jury service and to those who have died to assure the system of government and law that all enjoy in the United States.

"Having been found guilty of contempt, respondent faces two possible sentences: a fine of up to \$1,000 or a jail sentence of up to thirty days with no time reduction for good behavior or both. According to Judge McLaughlin, "For most people who appear for jury service, but not all, such a fine poses no real penalty. Many New Yorkers gladly would pay \$1,000 to avoid jury service because their incomes easily could absorb that loss."

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The Judge determined that a jail sentence was a more fitting punishment than a fine, and he sentenced Pringle to four days in civil jail. According to the New York City Department of Correction, the prisoner was released on the first day with "time served."

In the Matter of Punishing James Pringle for a Criminal Contempt, does not set precedent and is not binding on any other judge or court.

Emily Jane Goodman is a New York State Supreme Court Justice

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