

LEGAL OPINION
September/2009

Here is the info from the AOC I was referring to regarding judges excusing jurors for longer than 12 months:

From: Giden, Michael [mailto:Michael.Giden@jud.ca.gov]
Sent: Monday, February 23, 2009 11:10 AM
To: Nguyen, Thu
Cc: Finke, Chad
Subject: Confidential and Privileged Attorney/Client Communication re: Juror Excusals

Thu:

You asked the following question:

Prospective and sworn jurors are generally excused for a period of 12 months after their service. Judicial officers sometimes excuse sworn jurors for a longer period due to the circumstances surrounding the trial; e.g.: length of trial, trial lasting much longer than anticipated, nature of evidence presented. We would like to know if there are any statutes/rulings preventing judicial officers to do so.

As we discussed over the phone last week, I have been unable to find any legal authority that would prevent judicial officers from extending the time a juror may be excused based on that juror's service on a prior jury.

The California Rules of Court specifically require that a juror who has served on a jury or been summoned and appeared for jury service during the previous twelve months must be excused from service on request. But, rule 2.1008 goes on to state that the "jury commissioner, in his or her discretion, may establish a longer period of repose." So, a jury commissioner certainly may be excused a juror for a period of longer than 12 months based on an appearance or service on a jury.

The jury commissioner serves at the pleasure of a majority of the judges in a superior court. (Cal. Code of Civ. Pro. § 195.) "[T]he jury commissioner, when appointed, like other attachés of the judicial system of the state, is no more than an adjunct of that system acting in the capacity of a mere employee to enable the court to transact its judicial work in an orderly and expeditious manner." *Martin v. Superior*

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Court of Sacramento County (1924) 194 Cal. 93, 106. As such, the jury commissioner's authority is derivative of the court's. Thus, if a jury commissioner has the authority to excuse a juror for a specific reason, a judge likely has the very same authority.

I hope you find this preliminary response helpful. If you think this question requires more thorough research or you become aware of authorities that you would like us to review, do not hesitate to contact me. And thanks again for your patience.

Michael

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