

Recorders Court Jury Fraud Exposed

Sam Stark

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Accused persons in Detroit Recorder's Court have been tried and, in many cases, found guilty by juries of which Blacks, other minority group members, Southern-born, foreign-born, working-class people, ADC mothers, students, bearded males, and persons convicted of moving traffic violations have been systematically and discriminatorily excluded from serving on.

This fact, known generally among Blacks, poor people, students and inmates of Jackson State Prison, were revealed to the public with Judge Hoffman-like honesty in testimony given March 26 by Recorder's Court Jury Commission Chairman Karl B. McKeehan.

McKeehan had been subpoenaed by the defense lawyers for Rafael Viera and Clarence J. Fuller, currently on trial for allegedly shooting two Detroit policemen a year ago outside the New Bethel Baptist Church, to answer charges that certain people have been barred from serving as jurors for unlawful and discriminatory reasons.

The attorneys interrupted selection of a jury in the trial of the two men to challenge the way the three-member jury commission selects potential jurors.

The reason for challenging the jury selection process so forcefully in this trial, attorney Kenneth V. Cockrell pointed out, was because of the mathematical possibility of ending up with an all-white jury to try a Puerto Rican and a Black in a city that is only 50% white.

The prosecution, Cockrell explained, could, with the use of its preemptory challenges (excusing prospective jurors without stating reasons) have eliminated all of the Blacks who were available in the selected panel of eligible jurors.

It is more than the "luck of the draw," the attorneys were suggesting, that explains why a disproportionately lower percentage of Blacks (or for that matter students, poor, etc.) generally appear as potential jurors in Detroit Recorder's Court.

McKeehan and the Jury Commission records were subpoenaed in a legal motion that was allowed by Circuit Court Judge Horace W. Gilmore, who is presiding over this second New Bethel trial. Alfred Hibbitt, Jr., was found innocent of attempted murder of one policeman by a racially balanced jury in the first trial last December.

McKeehan, 67 years old, White and quick to blush, proved to be a superb witness for the defense. Judge Hoffman himself, who the commissioner resembles in both appearance and politics, could not have performed more ably in the role of a living manifestation of the racist nature of the Amerikan Judicial System.

McKeehan, it should be noted, was ably assisted by defense lawyer Justin C. Ravitz in putting his foot in his mouth at every available opportunity.

McKeehan explained, first of all, that some 15,000 Detroiters listed on the voter registration files for 1969 were mailed letters calling them to jury service last fall. Approximately half of that number responded, he said.

Of this 7,500, some 4,000 were excused by the three jury commissioners on the basis of the 48-questionnaire and personal interviews at the commission office.

Of the 3,500 remaining, 151 were supplied, chosen by the always fair and impartial "fishbowl" method of selection, last week as potential jurors for the Viera-Fuller trial.

Potential jury members, McKeehan explained, can be eliminated at the initial interview based upon the following established criteria, (1) illness; (2) age, (3) self-employed, (4) criminal record, (5) school enrollment, (6) financial hardship, (7) moving out of the city, (8) member of police or other law enforcement agency, (9) certain categories of state, county, and city employees, (10) doctors or registered nurses, (11) teachers, and (12) employment outside city or state.

At first inspection, the stated reasons may appear to be quite legitimate. Hardly anyone would dispute the need for a pre-trial screening process to select persons who are physically and mentally fit to serve on a jury.

What actually takes place, though, is that certain groups and categories of people are systematically excluded from jury duty.

Immediately, even before the initial interview by the jury commission, persons are automatically excluded if they are not registered voters. This is done by a state law which says that jurors shall be chosen from "electors in the city in which they reside."

This would be fair enough if there wasn't a significant percentage of citizens in this country who for personal, political and other reasons choose not to exercise their constitutional right to vote.

However, their reasons for not doing so are not at issue in this instance. What is at issue is that the right to vote, supposedly a privilege, suddenly becomes, within the context of the Judicial System, an albatross around the necks of these individuals and denies them, summarily, their right to serve on a jury.

There is nothing inherent in one's going down to a Kroger grocery store and registering to vote that spontaneously makes one a Solomon in rendering fair and impartial judgments upon others.

Actually, the political system in this country is afraid of anybody who voluntarily chooses not to exercise his basic constitutional right in this land of freedom and opportunity.

More importantly they are worried about the reasons why somebody chooses not to vote. Perhaps it indicates a lack of abiding faith in the system. And if that's true, it's dangerous to have a person with that kind of attitude on a jury trying a "criminal," like John Sinclair.

The state law, however, also requires that jurors must be of "good character, of approved integrity, of sound judgment, well in formed, conversant with the English language, in possession of their natural faculties..."

By these standards, Richard Nixon, Spiro Agnew, Judge Hoffman and Richard Daley would never be qualified to sit on a Detroit Recorder's Court jury.

The law, needless to say, is vague and ambiguous. It requires that whoever applies the law also interprets it. However, the guidelines for making that interpretation likewise are vague. It leaves too much to the discretion of the individual jury commissioners.

But as Ravitz himself said, "We are not attacking the law. We are attacking the way it is applied."

The way it is applied, as can be readily seen, depends almost solely upon those three individuals who are appointed to the jury commission. And who is appointed to the commission depends solely upon those who have the power to make those appointments. If McKeehan is to be attacked as being biased and racist in his application of the law, you cannot divorce that result from the fact that he was appointed by Governor George Romney in 1964, reappointed in 1968 and continues to serve under Governor William Milliken, a "liberal" Republican. And he probably would have served in that capacity until he suffered a stroke had not Ravitz, Cockrell and Milton Henry challenged that system which he oversees.

With the understanding that political appointees don't come with the stork, one can begin to realize that guys like McKeehan, as well as J. Edgar Hoover, are not just pimples on the nose of Justice; and they are about as accidental as Vietnam.

Appointees are accountable to somebody somewhere. If their actions did not meet the approval of that guy at the top, they would be promptly fired, as when a government employee takes part in a peace demonstration.

McKeehan has functioned successfully for six years because he "does his job." His job obviously would not be so blatant as to exclude Blacks, students, freeks or working-class men and women because they are Black, student, freaky, or working-class men and women.

His "job" is to screen those who are not of "good character," "approved integrity" or "sound judgment." By McKeehan's definitions, and those of the system he represents and functions for, Blacks who happened to have been

picked up for frequenting an after-hours drinking spot or a White man who spent time in a juvenile home 25 years ago are not of "good character."

And neither, for that matter, are David Dellinger, Bobby Seale or Abbie Hoffman.

What does this all mean? As Thomas Gallagher, assistant Corporation Counsel for the City of Detroit, said in an interview with TV 2 outside the courtroom, "If you really had trial by your peers, the way these people would have it, you would have juries of criminals trying criminals."

Right on, let's give Viera and Fuller a trial by the Conspiracy 8, the DC 9, the Panther 21, Fort Dix 34, Los Siete de la Raza (Seven of our Race), all of them or any combination of 12 thereof.

After listening to McKeehan's testimony, it soon becomes obvious that the law to him and his bosses is just a device to legitimize their own racism and perpetuate their being. Where possible they use the law to exclude people (Blacks, students, the poor, etc.) that they didn't want anyway. When not possible, they do it anyway.

Of the 60 forms discussed in Thursday's cross-examination, notations were made by the commissioners such as "ADC mother", "DeHoCo", "crippled legs", "pensioner", "nervous", "chewing gum", "pregnant", "traffic tickets", "blind pig", "eighth grade", and "bearded".

One must presume from this openness that this is one of the most blatant acts ever of unlawful application of the law by public servants or that the jury commissioners are so stupid that they are not even remotely aware of their own racism and prejudice.

In further testimony, McKeehan admitted that persons were barred from serving as jurors because:

"One man misspelled a word in filling out the questionnaire.

"Another, otherwise qualified, was excused simply because his middle-name was "Allah."

"A physicist, with a Masters Degree, was barred because he wore a beard.

"A woman, five months pregnant, was eliminated for reasons of pregnancy. even though her jury duty was twelve months away.

"Several men and women were barred from serving as jurors because they had only an 8th grade education even though they completed the questionnaire legibly.

"Numerous persons were eliminated because they testified in the questionnaire that they had been arrested, even though charges were never brought nor a conviction ever rendered."

One man was even turned down by the jury commission because he was convicted five years ago on a reckless driving charge. As attorney Cockrell said, "Man, they're afraid of you even when you get a traffic ticket."

In another instance, commissioner Marjorie McDaniels eliminated a 46-year old man with a ninth-grade education and no criminal record even though he had once served on a federal court jury.

Asked by Ravitz what possible reason Mrs. McDaniels might have had to excuse this juror, McKeehan blurted, "That's up to her.- She must have had her reasons." No doubt McKeehan had his reasons, too, when he excused a 59-year old woman with a high school education, who had no criminal record, married with two children, who stated she was born in Russia.

McKeehan must have had his reasons even though they were not the kind he would state in court.



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