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Honorable William C. Gullahorn, Jr.
Circuit Judge
Twenty Seventh Judicial Circuit
P. O. Box 546
Albertville, AL 35950

Jury Duty - Jurors -
Compensation

In considering § 12-16-8, a second- or third-shift employee, who has served on a jury for six to eight hours of a day and is expected to serve as a juror the next day, would not be required to report to work on his next shift.

Dear Judge Gullahorn:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

A juror who normally works the 3:00 p.m. until 11:00 p.m. shift at the Jackson County Hospital was required, after being released from jury duty at 4:00 or 5:00 in the afternoon, to report to the hospital and complete her shift until 11:00 p.m. As a result the juror was compelled to work almost double shifts each day as she performed her civic duty as a juror.

I don't know if I am really asking for a formal opinion as to whether or not that is within the meaning of Code of Alabama 1975, § 12-16-8.1.

FACTS, LAW AND ANALYSIS

Code of Alabama 1975, § 12-16-8 and § 12-16-8.1 concern the excusing of employees for jury service. These provisions provide in pertinent part:

"§ 12-16-8.

"(a) Upon receiving a summons to report for jury duty, any employee shall on the next day he is engaged in his employment exhibit the summons to his immediate superior, and the employee shall thereupon be excused from his employment for the day or days required of him in serving as a juror in any court created by the constitutions of the United States or of the state of Alabama or the laws of the United States or of the state of Alabama.

"(b) Notwithstanding the excused absence provided in subsection (a) of this section, any full-time employee shall be entitled to his usual compensation received from such employment less the fee or compensation he received for serving as such juror."

"§ 12-16-8.1.

"(a) No employer in this state may discharge any employee solely because he serves on any jury empanelled under any state or federal statute; provided, however, that the employee reports for work on his next regularly scheduled hour after being dismissed from any jury."

It was concluded in an opinion to Honorable Inge P. Johnson, Presiding Judge, Colbert County, dated January 16, 1992, A.G. No. 92-00112, that in considering § 12-16-8, a second- or third-shift employee, who has served on a jury for six to eight hours of a day and is expected to serve as a juror the next day, would not be required to report to work on his next shift. Quoting from that opinion:

"Section 12-16-8 appears to clearly require that a person called for jury service be excused from work for the day or days during which jury service is required. In other words, as long as jury service continues, his primary responsibility is to that service and he must be excused from work to perform that service. It would be impossible for an employee to serve on a jury for eight hours and appear at his job during those same eight hours. It is just as difficult for a juror to give adequate attention to jury service if he comes off of an eight-hour work shift to serve. Therefore, it appears that the statute contemplates that a citizen who is called to serve as a juror is required to be excused from work for the entire 24-hour day. However, under Section 12-16-8.1, when the term of jury service is over and the juror is dismissed from service, he must return to work at the next shift."
(Emphasis in original.)

CONCLUSION

In considering § 12-16-8, a second- or third-shift employee, who has served on a jury for six to eight hours of a day and is expected to serve as a juror the next day, would not be required to report to work on his next shift.


Any employee in this situation should contact his employer and inform his employer as to the correct interpretation of the law. He should also inform the judge who is presiding over the trial in which he is a juror.

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I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

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