

# Jurors too inquisitive for their own good

**LEGAL:** When they do their own research, cases get thrown out

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**WEST PALM BEACH, FLA.** - From drunk tests to body-drying.

Jurors, court watchers agree, sometimes do the darndest things.

Juror Dennis DeMartin has gotten more than his 15 minutes of fame for revealing in a self-published book that he drank three vodkas one night during the trial to determine whether Wellington, Fla., polo mogul John Goodman was unfit to drive in a 2010 crash that killed 23-year-old Scott Wilson.

But he is hardly the first - or likely to be the last - juror to head home to experiment.

In Ohio, three jurors famously took showers, timed how long it took their bodies to air-dry and then shared their results with the panel that ultimately rejected a Cincinnati man's claim that his wife drowned accidentally in a bathtub. The woman, who was dry when paramedics arrived, would have been wet if her husband had called 911 immediately, jurors found.

Based on what he called the "unorthodox shower-sequence," the Ohio trial judge tossed out the verdict. Palm Beach County Circuit Judge Jeffrey Colbath on Friday ruled that DeMartin's drinking experiment didn't affect the jury's decision, a finding Goodman's attorneys are expected to challenge on appeal.

The well-publicized extra-curricular experiments and others that undoubtedly slip by undetected signal that something is amiss with the jury system, said Thaddeus Hoffmeister, a professor at the University of Dayton School of Law who specializes in watching jury behavior.

"To me, it's not a jury problem. It's a legal system problem," said Hoffmeister, who writes a blog on juries.

If judges fully explained why it's so important for jurors not to conduct their own research and to abide by other time-honored rules of the criminal justice system, they would be less likely to act on impulses to conduct their own research, he said. Under the rules, jurors are allowed to consider only testimony and evidence presented in the case.

"Get them to buy in," Hoffmeister suggested. "Tell them why it's not right."

## GOOGLING

These days, judges acknowledge, the urge to conduct independent research, to share experiences with others, or even to reach out to others involved in the trial is irresistible to some jurors.

The advent of cellphones, laptops and e-readers has put the world at jurors' fingertips, and some Internet-addicted people simply can't understand why they can't text, blog, tweet or post Facebook messages about the trial or search Google to find more information.

For young people, Hoffmeister said, such digital activity is as normal as breathing. "They have more faith in Wikipedia than someone who is testifying," he said.

Palm Beach County Circuit Judge Lucy Chernow Brown said she has had to deal with that attitude on more than one occasion. Sent to Broward County on special assignment in 2010 to retry a murder case, she was overseeing jury selection when one potential juror reported that the entire panel had been poisoned.

While waiting, one man Googled the name of the defendant and told others: "This is a bad guy. He ran away to Nicaragua after the murder." The man told her he knew he shouldn't have done it but couldn't stop himself. Brown said she had no choice but to start jury selection over from scratch.

In a Palm Beach County case, a juror looked up the word "bolster" on her smartphone and shared the definition with other jurors. Although all of the jurors admitted the incident had taken place, Brown ruled that the word wasn't key to the case and the conviction stood.

## MEANING OF PRUDENT

In another case, however, an appeals court reversed a manslaughter conviction because the jury foreman looked up the word "prudent" with his phone during deliberations and told other jurors what it meant. In that case, the appeals court ruled, the word was important. The jury was being asked whether Acreage, Fla., resident Jose Tapanes acted prudently when he fatally shot a neighbor who he claimed threatened him on his porch. Tapanes was acquitted when he was retried.

Hoffmeister argued that jurors wouldn't feel compelled to secretly look up words if they could simply ask what they meant. Palm Beach County Circuit Judge Edward Fine said his ability to answer such questions is limited. If there's a legal definition of a word or phrase that differs from how it is commonly used, he can explain the legal meaning. Otherwise, he must simply tell jurors to rely on their own knowledge. Judges are allowed only to rule on the law, he said.

However, he said, if a juror asked such a question during the trial, it is likely attorneys would elicit testimony to explain what a word meant.