

2 Dismissed From Jury Deciding Case Of Politician

By JODI RUDOREN

CHICAGO, March 27 — A federal judge dismissed two jurors on Monday two weeks after the jury began deliberating in former Gov. George Ryan's corruption case, tossing into turmoil a trial that has stretched over six months.

The judge, Rebecca R. Pallmeyer of Federal District Court, said she had not made any decisions about whether to proceed and hoped to avoid a mistrial by replacing the two jurors with alternates.

But Mr. Ryan's lawyers objected to that prospect, arguing that "asking them to 'start deliberations anew' is asking the impossible."

The dismissals follow revelations in *The Chicago Tribune* last week that two jurors lied on questionnaires about whether they had criminal records, with one failing to disclose drunken-driving arrests that led to the revocation of his driver's license while Mr. Ryan, a Republican, was the secretary of state, whose office is responsible for such matters.

Judge Pallmeyer ordered the dismissed jurors not to discuss the situation, and lawyers in the case are also barred from speaking about it with reporters.

But legal experts who have been following the proceedings described Monday's removals as a serious threat to the trial, raising a strong issue for appeal regardless of how the judge proceeds.

"The deliberations have turned out to be a nightmare," said Patrick Cotter, a defense lawyer here and a former federal prosecutor in Brooklyn. He called the situation "a unique sort of perfect storm of problems."

Mr. Ryan, 72, and his friend Lawrence K. Warner, 67, face 22 counts of racketeering and conspiracy, accused of trading state business for gifts, vacations and cash.

Even before the dismissals, jurors had sent notes to Judge Pallmeyer indicating discontent, prompting her to urge them to treat each other with "dignity and respect" and to deliberate only when all of them were together in one room. Judge Pallmeyer said Monday that she had no indication they were deadlocked.

Alternates routinely replace jurors, but rarely so deep into deliberations. It is unusual, after all, for jurors to deliberate for even the eight full days that have already been logged in this case.

In an odd parallel, the conviction of Fife Symington, former governor of Arizona, was overturned in 1999 because a juror was dismissed seven days into deliberations. But another former governor, Edwin W. Edwards of Louisiana, remains in prison despite persistent appeals of his corruption conviction in 2000, partly based on the dismissal of a juror six days into deliberations.

Ted A. Donner, co-author of the law text "Jury Selection Strategy and Science," which was referenced in the defense's objection to using alternate jurors, predicted a mistrial in the Ryan case.

"It's one thing to hear a piece of testimony and have a judge tell you to disregard that," Mr. Donner said. "It's another thing to disregard an entire week's discussion that you've had with 11 other people."

Judge Pallmeyer said that if she decided to proceed, she planned to repeat the jury instructions and advise the reconstructed group to "begin afresh" and "to the extent possible, to go back into that jury room as though they have never discussed the case with one another at all."

But experts pointed out that the four alternates returned to their regular lives after closing arguments on March 10, exposed to blaring headlines about the case.

The fact that the two jurors were dismissed for lying, and that one might have harbored a grudge against the secretary of state's office for denying him driving privileges, complicates matters further.

"If you're the defense, you're saying, 'Oh my God, there's been a guy on the jury for eight days of deliberations who's against us, who hates us,'" Mr. Cotter said, imagining an appeal. "I mean, how do you put that toothpaste back in the tube?"

Determining whether the jury has been tainted presents a major challenge for the judge.

"She doesn't want to appear to be asking about what they've decided," said Andrew D. Leipold, a law professor at the University of Illinois.

The question, Professor Leipold said, is whether the jury is "still banging their heads on Count 1" or is "chugging away nicely."

If they have already voted on several counts, he said, "are we really going to have the same conversation again, and everyone will stare at the two new jurors and say, 'Do you agree?'"

Gretchen Ruethling contributed reporting for this article.