



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

October 15, 2026

The Honorable Carolyn P. Hamilton
Circuit Clerk, Sunflower County
Post Office Box 880
Indianola, Mississippi 38751

Re: Recalling Jury Panels Who Were Summoned but Did Not Have to Report for Jury Duty

Dear Ms. Hamilton:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, you are concerned that the jury wheel may be exhausted before the next wheel is drawn in April 2027 due to the current court calendar and the number of trials set for the coming year.

Question Presented

May prospective jurors, who were placed in the April 2026 jury wheel and issued summonses but not required to appear because no trial was held during their assigned week, be summoned again for a future week of court if the jury wheel is exhausted?

Brief Response

There is no statutory authority prohibiting prospective jurors, who were placed in the April 2026 jury wheel and issued summonses but not required to appear because no trial was held during their assigned week, from being summoned again for a future week of court if the jury wheel is exhausted.

Applicable Law and Discussion

Each county's jury commission is required to "maintain a jury wheel¹ into which the commission . . . place[s] the names or identifying numbers of prospective jurors taken from the master list."² Miss. Code Ann. § 13-5-10. The jury wheel is "emptied and refilled" in April of each year as set forth in Section 13-5-10, which also provides that "[f]rom time to time a larger or additional number may be determined by the jury commission or ordered by the court to be placed in the jury wheel." Names or identifying numbers of prospective jurors are then randomly drawn from the jury wheel as ordered by the court and placed in a jury box maintained by the circuit clerk. Miss. Code Ann. §§ 13-5-16 & 13-5-26(1). To empanel a jury, "[a] judge or any court or any other state or county official having authority to conduct a trial or hearing with a jury within the county" tells the circuit clerk the number of jurors needed, and the circuit clerk publicly draws or uses a computer program to randomly select the number of jurors specified from the jury box. Miss. Code Ann. § 13-5-26(2)-(3).

You ask if prospective jurors, who were placed in the April 2026 jury wheel and issued summonses but not required to appear because no trial was held during their assigned week, may be summoned again for a future week of court if the jury wheel is exhausted. We first note that there is no statutory guidance instructing circuit clerks how to proceed when the jury wheel has been exhausted. Further, there is no statutory authority prohibiting the subject proposed action or stating that prospective jurors, summoned but not required to appear, are incompetent jurors. Section 13-5-1 lists the qualifications for competent jurors as follows:

Every citizen not under the age of twenty-one (21) years, who is either a qualified elector designated as an active voter in the Statewide Election Management System, or a resident freeholder of the county for more than one (1) year, is able to read and write, and has not been convicted of an infamous crime, or the unlawful sale of intoxicating liquors within a period of five (5) years and who does not have a substance use disorder, is a competent juror. No person who is or has been within twelve (12) months the overseer of a public road or road contractor shall, however, be competent to serve as a grand juror. . . . Moreover, no talesman or tales juror shall be qualified who has served as such talesman or tales juror in the last preceding two (2) years, and no juror shall serve on any jury who has served as such for the last preceding two (2) years. No juror shall serve who has a case of his own pending in that court, provided there are sufficient qualified jurors in the district, and for trial at that term.

In sum, Section 13-5-1 does not indicate that prospective jurors, who were summoned but not called to report for jury duty, are incompetent to serve as jurors. Furthermore,

All the provisions of law in relation to the listing, drawing, summoning and impaneling juries are directory merely, and a jury listed, drawn, summoned or

¹ A "jury wheel" means any physical device or electronic system for the storage of the names or identifying numbers of prospective jurors." Miss. Code Ann. § 13-5-4(e).

² "'Master list' means the voter registration lists for the county." Miss. Code Ann. § 13-5-4(c).

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impaneled, though in an informal or irregular manner, shall be deemed a legal jury after it shall have been impaneled and sworn, and it shall have the power to perform all the duties devolving on the jury.

Miss. Code Ann. § 13-5-87; *see also Havard v. State*, 986 So. 2d 333, 336 (Miss. Ct. App. 2007) (holding that a circuit court's order compelling nine jurors, who were called for jury duty in the prior term but did not sit on a jury, to return for the next term of court was not erroneous because there was "absolutely no evidence that the jury was unfair or partial").

It is therefore the opinion of this Office that there is no statutory authority prohibiting prospective jurors, who were placed in the April 2026 jury wheel and issued summonses but not required to appear because no trial was held during their assigned week, from being summoned again for a future week of court if the jury wheel is exhausted.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Kristi D. Kennedy

Kristi D. Kennedy
Special Assistant Attorney General

OFFICIAL OPINION