

EXPERT TESTIMONY AND SUBSTANCE-THEMED
MITIGATION IN CAPITAL CASE
SENTENCING

by

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ABSTRACT

The present study explored how jurors utilize biopsychosocial variables during the sentencing phase of a capital trial. According to literature, certain mitigating factors, like substance abuse, cause a "backfire effect." This means that contrary to the defense's intentions, jurors considered the information more aggravating than mitigating. Previous studies of biopsychosocial mitigation have neglected the impact of expert testimony on juror decision-making. Ideally, an expert imparts knowledge so jurors are more informed in their sentencing choice. However, such testimony may exacerbate the "backfire effect" by underscoring unfavorable qualities of the defendant. Hypotheses anticipated participants (mock jurors) exposed to expert testimony regarding a defendant's substance abuse would be more likely to choose the death penalty. Further, it was anticipated this effect would be greater for mock jurors displaying problematic drinking patterns. Results revealed a significant main effect of expert testimony such that mock jurors exposed to testimony were significantly less likely to choose the death penalty, regardless of whether the defendant abused substances. Upon further investigation, the significant effect of expert testimony only held true for college student participants. These results highlight the importance of a two-step process of data analysis in juror decision-making studies using college student samples. Specifically, significant effects should be confirmed within a more venire-representative sample before drawing conclusions. Uncovered data also shed more light on the influence of expert testimony during capital cases, as well as the juror characteristics associated with different sentencing decisions for a defendant

displaying mental health problems. In addition, data suggested substance-themed mitigation is not necessarily deleterious for the defense. Effective expert testimony may provide a buffer against the backfire effect, especially for jurors with higher levels of achieved education.

DEDICATION

This is dedicated to my parents, Teresa Boyle and H. Thomas Boyle, as well as my sister, Christina Boyle. I love you!

LIST OF ABBREVIATIONS AND SYMBOLS

α	Chronbach's alpha: The expected correlation of two tests that measure the same construct
β	Standardized beta value: Regression coefficient, the average amount by which the dependent variable increases with unit increases in the independent variable; the slope of a line.
B	Unstandardized beta value
df	Degrees of Freedom: Number of values in a final calculation that are free to vary (i.e., number of independent observations minus the number of estimated population parameters)
F	F statistic: Value calculated by the ratio of two sample variances
χ^2	Chi-square test of significance of model fit
M	Mean: The sum of a set of values divided by the number of values in the set
n	Size of a group
N	Size of overall data set
p	Probability associated with the occurrence under the null hypothesis of a value as extreme as or more extreme than the observed value
R^2	R-squared: Coefficient of determination, a measure of effect size
ΔR^2	Change in R-squared
SD	Standard Deviation: Value of variation from the mean
SE	Standard Error: Measure of the statistical accuracy of an estimate
t	T statistic: Value determining whether sample means differ

z	Sobel test statistic
$<$	Less than
$>$	More than
$=$	Equal to
$+/-$	Plus or minus
$\%$	Percentage

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1. INTRODUCTION

Capital murder trials are characterized by a bifurcated trial process. Once guilt has been established, the punishment phase allows both sides to present aggravating and mitigating evidence to the jury. The prosecution introduces certain aggravating factors, established at the state level, to justify the death sentence. The defense offers mitigating factors, hoping to reduce severity of punishment. Biopsychosocial variables include things like defendant intellectual disability, poor upbringing, mental health problems (e.g., substance abuse) and the like. A variety of biopsychosocial factors are commonly used by the defense as mitigation in capital case sentencing (Barnett, Brodsky & Price, 2007). The present study built upon past research into biopsychosocial mitigation and the variables that make a difference in sentencing, while utilizing a methodology more aligned with courtroom conditions. The impact of expert testimony regarding biopsychosocial variables was examined as it relates to jurors' sentencing decisions in a hypothetical capital murder case. The goal was to uncover whether expert mental health testimony yielded less punitive sentencing decisions, or contributed to converted mitigation, also known as the "backfire effect."

According to existing empirical research on biopsychosocial mitigation, jurors often handle such factors in the opposite way than intended by the defense (Haney, Sontag, & Costanzo, 1994; Barnett et al., 2007; Fabian, 2007; Bjerregaard, Smith, Fogel & Palacios, 2010).

Therefore, several questions have been raised regarding the effectiveness of introducing defendant mental health problems in an attempt to reduce sentence severity. In one such investigation, Barnett et al. (2007) studied the impact of ten potentially mitigating circumstances on mock jurors' sentencing decisions during a hypothetical capital murder trial. Participants were asked to make sentencing decisions both before and after the presentation of mitigation. Certain mitigating factors were associated with a shift to more lenient sentencing decisions. These factors included mental retardation, previous inpatient psychiatric hospitalization and the defendant's history of severe head injury. Participants moved to harsher sentencing decisions when the defendant was intoxicated at the time of the crime, or was proclaimed an alcoholic or drug addict. Researchers concluded that some forms of biopsychosocial mitigation are actually used by mock jurors as justification for harsher sentencing (Barnett et al., 2007). Stevenson, Bottoms and Diamond (2010) uncovered a similar pattern in a project examining mock jury deliberations. Researchers analyzed participants' discussions regarding a defendant's history of abuse as a child and the defendant's problem with alcohol dependency. Results revealed that in deliberation, mock jurors considered both the defendant's history of child abuse and alcoholism as significantly more aggravating than mitigating (Stevenson et al., 2010). This phenomenon is noted in several other empirical explorations of biopsychosocial mitigation and was termed "converted mitigation" by Haney et al. (1994). It has also been described as the "backfire effect" by Barnett et al. (2007).

According to findings, mitigation involving drug abuse or addiction is particularly prone to cause a "backfire effect," meaning jurors may consider the information as more aggravating than mitigating (Barnett et al., 2007; Haney et al., 1994; Stevenson et al., 2010). However,

before concluding that drug themes should be avoided altogether, it is important to consider analyses of assignment of blame when substances are involved in crime. Also, some conflicting data regarding substance-themed mitigation and the resultant effects on mock jurors' sentencing decisions will be reviewed in order to lay groundwork for the current study.

Substance Abuse and Blameworthiness

Substance use is involved in many criminal acts in the United States. In 2013, the United States Department of Justice estimated 40% of violent crimes occurred while the assailant was abusing alcohol (NCADD, 2014). When voluntary intoxication is discussed at trial, "it is never introduced as a complete defense, but rather, to negate certain elements of *mens rea*" (Stevenson et al., 2010, p. 2). However, questions remain as to whether informing the jury of defendant substance use is an effective strategy for the defense. Alicke (1990) and others have investigated assignment of blame and asserted culpability is reduced when "personal control over an event is diminished" (p. 650). Wild, Graham and Rehm (1998), drawing on both anthropological and attributional perspectives, said that the intoxication of a criminal is "sufficient to attenuate perceived blameworthiness and punishment for that individual" (p. 678). Following this logic, researchers have looked at respondents' perceptions of intoxicated perpetrators and predicted blameworthiness would be reduced. Empirical tests of this prediction, however, reveal surprisingly inconsistent results, leading one to conclude that providing information about substance abuse is a risky strategy for the defense.

This point is illustrated well in a study conducted by Higgins, Heath and Grannemann (2007). Researchers introduced various "excuses" used by a defendant, and measured resulting effects on mock jurors' levels of punitiveness. Researchers concluded mock jurors were less

punitive when a defendant's "excuse" was viewed as outside of personal control (e.g., history of abuse as a child), rather than "self-inflicted" (p. 371). For instance, defendants claiming to have posttraumatic stress disorder (PTSD) were less likely to receive guilty verdicts. It was concluded that mock jurors perceived the defendant as not having control over PTSD. On the other hand, hypothetical defendants claiming to have a substance abuse problem, such as a cocaine use disorder, were seen as significantly more culpable. The substance dependency was considered to be a result of the defendant's own behavior and choices (Higgins et al., 2007), increasing blameworthiness in the eyes of mock jurors.

Before concluding that themes of substance abuse should be avoided by the defense altogether, it is important to look at conflicting results from other studies on this topic. Wild et al. (1998) conducted a meta-analysis of alcohol and culpability issues. Under specific circumstances, defendants were perceived as less blameworthy if they were intoxicated during the crime in question. For instance, a study by Critchlow (1985) was reviewed. Here, researchers found that intoxicated criminals were only viewed as less culpable when they had committed a serious crime such as beating someone up, as opposed to a less serious criminal act. Sobell and Sobell (1975) showed that participants imposed less severe punishments on the perpetrator of a crime committed while intoxicated when the perpetrator was both a first-time offender and not considered alcoholic.

In a study more specific to the issue at hand, Barnett, Brodsky and Davis (2004) examined how mock jurors handled drug and alcohol themes during capital case sentencing. Researchers found that just the presentation of biopsychosocial mitigation, regardless of whether it was related to substance abuse, resulted in fewer death sentences. This same study showed

that participants exposed to biopsychosocial mitigation were even less likely to impose the ultimate penalty when the hypothetical defendant was described as drug-addicted and high during the commission of a crime (Barnett et al., 2004). As noted, some studies have shown drug use themes, under certain conditions, are not harmful to a criminal defendant when introduced at trial. However, biopsychosocial factors, such as defendant drug usage or alcoholism, cannot be relied upon to always reduce the severity of punishment in the courtroom. In fact, there have been several empirical investigations suggesting this type of mitigation is particularly susceptible to the “backfire effect” (Barnett et al., 2007).

Factors Influencing Jurors’ Interpretations of Alcohol-Related Mitigation

While introducing alcohol-related themes to a jury can result in the “backfire effect,” a comprehensive review of the literature suggested this information should not necessarily be avoided at all times. Barnett et al. (2004) stated, “Many factors such as...the expertise of the defense attorney and mental health experts may play a role in sentencing decisions” (p. 752). In their examination of the various factors affecting sentencing decisions, Stevenson et al. (2010) emphasized the impact of individual differences among jurors. Stevenson et al. (2010) hypothesized that participants strongly in favor of the death penalty “are more conviction-prone...have more positive attitudes toward police and prosecutors and more skeptical attitudes toward the defense, more impatience with due process rights, and more concern about crime in general” (p. 8-9). Additionally, these participants were also significantly less sympathetic to biopsychosocial mitigation. More data are needed to uncover which factors influence the relationship between substance-related mitigation and sentencing in capital murder trials. The

impact of expert witness testimony, along with certain mock juror traits, may be helpful in predicting sentencing decisions for defendants with substance abuse problems.

Expert Witness Testimony in Capital Cases

Fabian (2009) underscored the objective of mitigation evidence by writing that it should explain the defendant's behavior "in a humanly understandable light given his past history, unique characteristics affecting his development, and exposure to heightened risk factors and deficits in protective/mediating factors" (p. 5). Furthermore, it may be advantageous for the defense to call upon psychologists or other types of mental health experts to provide testimony to explain certain biopsychosocial mitigating factors.

Expert witnesses, especially those perceived as credible, provide valuable information for triers of fact, and they can significantly influence the outcome of a legal proceeding (Brodsky & Gutheil, 2015). A notable limitation of biopsychosocial mitigation literature is that it has not fully explored the impact of expert testimony in achieving this goal. Cunningham (2010) says there exists "a steadily expanding literature over the past three decades...identifying *risk* and *protective* factors for delinquency, criminality, and violence" (p. 54). Cunningham (2010) also emphasized that it is typical for those charged with capital murder to have an access of risk factors operating in their life, along with a shortage of protective factors, or assets. Identification of the specific risk and protective factors operating in a defendant's life may "provide a clear and compelling vehicle for demonstrating the relationship between adverse development and criminality" (p. 56). When appropriate, such information should be used to demonstrate "the penetration or cumulative nature of risk as opposed to protective/asset factors" in order to reduce blameworthiness (p. 56-57). Expert witnesses can play an integral part in explaining such factors

to laypersons on a jury, and this has the potential to influence sentencing decisions in capital murder cases.

Empirical explorations of drug-themed mitigation should include expert testimony. The expert can place biopsychosocial factors in context for jurors, so they are able to make more informed sentencing decisions. As Trahan (2011) noted, many capital jurors are “predisposed to reject mitigation and sentence a defendant to death” (p. 1). Depending on their understanding of mental illness, jurors may employ stereotypes and premature judgments regarding a defendant’s substance abuse problem. Experts can provide context for this type of information, to laypersons of varying psychological education, serving as a buffer against jurors’ potentially erroneous preconceived notions. As suggested by Stevenson et al. (2010), attorneys may wish to employ an expert “who could testify about the actual consequences of... alcohol abuse to ensure that jurors are provided with all the necessary information about these factors” (p. 32). Credible testimony from a mental health expert may effectively offset jurors’ preconceived ideas, which potentially contribute to the phenomenon of converted mitigation.

Individual Differences Among Jurors

Along with attitudes and stereotypes regarding mental illness, empirical research has identified other individual differences among jurors that impact legal decision-making. Demographic variables and other traits may prove especially influential when biopsychosocial mitigation is introduced. For example, Stevenson et al. (2010) predicted that jurors with a more conservative orientation, as well as those more in favor of the death penalty, would be less sympathetic to biopsychosocial mitigation. As anticipated in the Stevenson et al. (2010) study, a main effect of attitudes toward the death penalty was discovered; as support for the death penalty

increased, jurors viewed the defendant's history of child abuse as significantly more aggravating than mitigating. Support for the death penalty also predicted whether jurors viewed a defendant's alcohol abuse as aggravating, rather than mitigating. Interestingly, no main effect was uncovered for political orientation in the Stevenson et al. (2010) study. Other differences among jurors have been found to correlate significantly with attitudes toward the death penalty more generally. In their exploration of juror personality and sentencing decisions, Barnett et al. (2004) measured participants on a number of personality characteristics, including authoritarianism, dogmatism and punitiveness. They concluded each of these measures correlated positively with mock jurors' favor of imposing the death sentence.

Cochran and Sanders (2009), highlighted that "one of the more enduring observations in the study of death penalty support within the United States is the strong divide between males and females" (p. 525). More specifically, a large number of studies show that men are significantly more in favor of the death penalty than women. In their exploratory study, Cochran and Sanders (2009) sought to more comprehensively understand "the basis for this gender gap" (p. 525). After controlling for numerous juror traits including political ideology, gender socialization, fear of crime and victimization and religion/religiosity, the stark difference between men and women with regards to their attitude toward the death penalty remained strong.

Maggard, Payne and Chappell (2012) examined educational, demographic and neighborhood crime influences on a large sample ($N = 812$) of college students and community members from both low and high crime neighborhoods. Study participants responded to questionnaires containing 10 statement items measured on a Likert-type scale to assess attitudes toward the death penalty. Independent variables included, among other things, race, marital

status, neighborhood type (i.e., low or high crime) and student versus non-student status. Data were examined to see if the previously-mentioned predictors were significantly associated with attitudes toward capital punishment. Consistent with previous research on married versus single individuals and attitudes toward the death penalty, married individuals were found to be significantly more supportive of the death penalty as compared to their single counterparts (Bohm, 2003; Maggard et al., 2012). No significant differences were uncovered with respect to whether the participant resided in a low or high crime neighborhood.

With regard to race, Maggard et al. (2012) also found that Caucasian individuals were more in favor of the death penalty as compared to “non-whites.” Overall, results from the study of Maggard et al. (2012) indicated race was the strongest predictor of support for the death penalty. Interestingly, the impact of race on attitudes toward the death penalty was moderated by marital status. Based on the data, Maggard et al. (2012) contended, “Being non-white has a negative effect on death penalty attitudes among married people...and being single has a negative impact on attitudes toward the death penalty for whites” (p. 162). Maggard et al. (2012) indicated a relationship between support for the death penalty and juror race that is consistent with previous research on the topic, while also uncovering a moderation effect of marital status (e.g., Bohm & Vogel, 2004). Other data have corroborated the predictive significance of juror race and support for capital punishment. Young (1992) analyzed data from the 1988 General Social Survey and uncovered correlations between certain religious orientations and attitudes toward the death penalty. It was found that certain religious identifications were strongly predictive of attitudes toward the death penalty; however, Young (1992) noted the strength of the

relationship between religious affiliation and support for the death penalty differed significantly depending on participants' racial identification.

As a predictor, education has been implicated in several studies of attitudes toward the death penalty and capital case sentencing decisions. As Maggard et al. (2012) reported, education is one of the "factors that [has] received the most empirical attention from social scientists" in terms of its association with attitudes toward the death penalty (p. 155). As a predictor, education receives a great deal of attention because a large proportion of capital sentencing research utilizes college students as mock jurors. Thus, a degree of scrutiny is warranted with regard to the external validity of such studies.

Maggard et al. (2012) pointed out that research about the influence of education on attitudes toward the death penalty is "typically tied to tests of the Marshall Hypothesis...Justice Thurgood Marshall's argument that high levels of support for the death penalty were simply evidence of the fact that the public knew very little about the sanction" (p. 157). A meta-analysis by Cochran and Chamlin (2005) explored 18 different empirical tests of the Marshall Hypothesis and found conflicting conclusions. Some investigations uncovered that more knowledge about the death penalty decreased supportiveness of the death penalty (e.g., Wright, Bohm & Jamieson, 1995). Other data suggested that death penalty knowledge has a significant influence on attitudes in the short-term, but not in the long-term (Bohm, 1989; Bohm & Vogel, 2004). In a large-scale study by Maggard et al. (2012) measuring mock jurors across a variety of traits, cross-tabulations were completed to analyze students' and non-students' views of the death penalty, and only modest differences were uncovered. In general, however, students were found

to be less supportive and “more skeptical” about the death penalty as compared to non-students in the study sample (p. 160).

According to McCabe, Krauss and Lieberman (2010), education, and in particular, student versus non-student status, has been tied to legal decision-making in several ways, particularly in studies of capital case sentencing. Therefore, researchers must take great care when considering the use of college student samples in empirical explorations of jury decision-making. In their review of available literature, Maggard (2012) et al. asserted the following:

The bottom line is that it is not clear whether university students and residents hold different attitudes about the death penalty. Given the large number of studies that survey students about the death penalty and offer social science and policy implications from those results, it is important to determine whether students and residents do, in fact, perceive the death penalty differently. (p. 157)

In order to attenuate potential contamination of data due to student status, McCabe et al. (2011) recommend a two-step process of data analysis for researchers utilizing college student samples. This process was originally suggested by Diamond (1997), and the process will be discussed more thoroughly below in the Methodology for the present study.

The Stigma of Mental Illness and Social Distancing

The effectiveness of expert testimony in explaining biopsychosocial mitigation, along with jurors’ personality traits, demographics and attitudes toward the death penalty, play into legal decision-making. Additional features should be explored for predictive value, including attitudes and stigma toward mental illness. In some situations, the impact of a defendant’s

mental health problems on sentencing decisions may be dependent on jurors' individual attitudes and experiences with the psychological factor(s) in question (Fabian, 2007).

Barnett et al. (2004) asserted that many jurors hold extreme stereotypes regarding persons with a mental illness. As a result, "jurors may use the stereotype as a mechanism to distance themselves from the defendant and then discount any mitigating evidence" (p.754). Sears, Pomerantz, Segrist and Rose (2011) recognized this same phenomenon and investigated it outside the courtroom. They predicted certain circumstances would make people more likely to stigmatize others. They asked college students to read vignettes depicting subjects with various mental illnesses, including alcohol dependency. Participants were then asked to respond to a scale measuring desire for social distance. Among the mental illnesses studied, vignettes depicting subjects with alcohol dependency and schizophrenia were significantly more likely to produce high scores on social distancing. Researchers concluded this result was due to the high-degree of stigma associated with both schizophrenia and alcohol dependency.

Jurors potentially hold stereotypes related to mental illness and this may influence the punishment of a defendant suffering from psychological problems such as schizophrenia or drug abuse. Jurors' own experiences with substance use may also influence their attitudes toward a defendant with a drug or alcohol problem. Fabian (2007), in a discussion of methamphetamine use and mitigation, said that of the various forms of biopsychosocial mitigation, jurors "often have a negative perspective about substance abuse and abusers of drugs" (p. 458). In addition, jurors' own experience with substances may increase stigmatization and punishment of drug-abusing defendants. Fabian (2007) also observed, "Not infrequently, jurors have used substances themselves and had no problems...others have a history of substance abuse recovery and have

overcome addictions” (p. 459). Because alcohol is readily and legally accessible to the general public, jurors are likely to have experience with the substance. This perhaps adds power to the stigmatization and stereotyping of a defendant displaying alcohol use problems; jurors’ own experience with alcohol may influence how they view a defendant with an alcohol problem.

The unhealthier the juror’s alcohol usage, the more they may wish to distance themselves from the defendant and problematic behaviors associated with an alcohol use diagnosis. For jurors with their own drinking problems, this is potentially achieved through an overestimation of the “sickness” of the defendant’s substance use as a way to reinforce the normalcy of his or her own use (Bertholet, Gaume, Faouzi, Daeppen & Gmel, 2011). In an effort to create distance from a defendant with an alcohol use disorder, jurors that have unhealthy drinking patterns may be more likely to stigmatize, leading to harsher sentencing. Research has shown that as one’s own drinking increases, the more one predicts others to drink. Bertholet, Faouzi, Studer, Daeppen and Gmel (2013) found that participants overestimating normal alcohol usage consumed significantly more drinks per week than the average individual. Ling et al. (2012) utilized focus groups to uncover subjects’ drinking patterns and perceived norms. When asked to describe problematic alcohol use, these participants reinforced the normalcy of their own drinking “by the construction of stereotypes of the deviant ‘other’ to describe less acceptable alcohol use” (p. 5). Participants scoring high on a scale of alcoholism may impose harsher punishment on a defendant who engages in problematic drinking. This effect may be exacerbated by expert mental health testimony due to greater emphasis on defendant alcohol usage. An alcohol use disorder diagnosis, which in effect emphasizes the “sickness” of the

defendant, as well as expert testimony regarding this “sickness,” may contribute significantly to the “backfire effect,” leading to harsher sentencing.

The Current Study

In studies of legal decision-making, research has uncovered the process of converted mitigation, and notably, when themes of defendant mental illness are involved (Barnett et al., 2007; Haney et al., 1994). However, there are some noted limitations of existing research on biopsychosocial mitigation. For instance, these studies examined the effect of various biopsychosocial mitigators in isolation. In one such example, mock jurors were exposed to one piece of evidence such as, the defendant “was sexually abused as a child” (Barnett et al., 2007, p. 42). Mock jurors were then asked to make sentencing decisions based on that fact alone. In a real court case, jurors would have the opportunity to place information, such as substance abuse or mental illness, into the larger context of the defendant’s life story.

Another limitation of existing research is that biopsychosocial mitigation is presented without the inclusion of expert witness testimony. Expert mental health testimony can be very important when drug use or addiction contributes significantly to the defendant’s life story. With effective testimony, the expert can place the substance use within the defendant’s unique combination of risk and protective factors, providing an explanation to the jury about what lead up to the behaviors in question (Cunningham, 2010). It should be emphasized, however, this may not always be a good thing for the defense. Past empirical research has shown that out of the biopsychosocial factors often presented during mitigation, drug usage is particularly prone to being used by the jury as aggravating rather than mitigating (Higgins et al., 2007; Stevenson et al., 2010). Mental health testimony regarding a defendant’s substance abuse helps jurors do their

job in that more data is provided, which ideally leads to more informed decision-making. However, it is also possible that additional information and more emphasis on a defendant's drug use may contribute to "the backfire effect." Expert testimony and the defendant's life story should be included in an externally valid study of biopsychosocial mitigation. It is still unknown, however, whether the inclusion of more information related to defendant drug use, via expert testimony, helps or hurts the defense's case.

Given the frequency with which alcohol is involved in serious crime, more study into how jurors make decisions about alcohol-themed mitigation during capital case sentencing is warranted. Furthermore, biopsychosocial factors should be explored in a realistic fashion, conducive with how such evidence is presented in court. Alcohol usage should be placed into the larger context of a defendant's life and jurors should understand the ratio of risk to protective factors operating in each situation (Cunningham, 2010). Past studies of biopsychosocial mitigation have not exposed participants to testimony from a mental health professional, which could make a difference in how jurors utilize substance use themes during sentencing. Stevenson et al. (2010) noted experts can "testify about the actual consequences of...alcohol abuse to ensure that jurors are provided with all the necessary information about these factors, rather than depending on jurors to fully understand them and interpret them in the same way" (p. 32).

In the current study, mock jurors' sentencing decisions were explored as a function of expert testimony, defendant alcohol use and mock juror alcoholism. Through this study, more information was gained about the role of mental health experts in capital case sentencing, as well as how jurors handle biopsychosocial mitigation. While past research has yielded mixed results,

one can preliminarily conclude that introducing the jury to the issue of defendant substance abuse is risky and may result in a “backfire effect.” Alcohol is a good starting point for a more thorough exploration of expert testimony and substance abuse as mitigation. Due to accessibility, alcohol is involved in a large number of crimes. In addition, as a variable of interest, alcohol abuse can be easily explored without introducing confounding criminal activity involved in the procurement and use of illegal drugs.

Hypotheses

Hypothesis One

A three-way interaction between Expert testimony, Defendant Diagnosis and Juror Alcoholism is anticipated. An interaction between Expert Testimony and Defendant Diagnosis is predicted such that the impact of the defendant’s alcohol use disorder on the dependent variable, Sentence Scale score, will differ according to whether Expert Testimony was present to explain the implications of the defendant’s diagnosis. It is expected that mock jurors exposed to the Defendant Diagnosis Present condition will be more punitive toward the defendant; they will lean more toward the death sentence, as measured by scores on the continuous Sentence Scale. Furthermore, this interaction is predicted to differ across levels of Juror Alcoholism. Participants (mock jurors) displaying problematic alcohol use, as represented by a higher score on the Michigan Alcoholism Screening Test (MAST), will be more affected by Expert Testimony when the defendant has an alcohol use disorder diagnosis, as compared to mock jurors with less problematic drinking behavior. Because of this, it is hypothesized that mock jurors with higher MAST scores are more likely to sentence the defendant with an alcohol use disorder diagnosis to death.

Hypothesis Two

For participants exposed to a capital defendant diagnosed with alcohol use disorder, Social Distancing will act as a mediator between Juror Alcoholism and Sentence Scale scores.

2. METHODOLOGY

Preparation and Planning

Production of Case Information

Two different versions of the case information screen were created for the purpose of this study (see Appendices M & N). Both versions described the crime committed by the defendant, Timothy Spencer. In Version II, however, the defendant was identified as “a heavy drinker since the age of 16.” Mitigating and aggravating circumstances were provided regarding details of the crime and characteristics of the defendant. Participants (mock jurors) were instructed to consider these circumstances during their decision-making process. The criminal situation, as well as the defendant and victims’ names are fictitious and were created by the researcher for the purpose of the study. Both versions of the case information screen contained the same aggravating circumstances used by the prosecution in their argument for the death penalty. Mitigating circumstances are the same in both versions with the exception of added information in Version II. Specifically, one additional mitigating circumstance is included in Version II:

After his arrest, the defendant was taken to Eastern State Hospital, where he stayed for three weeks before returning to jail. At Eastern State Hospital, Mr. Spencer was given a full psychological evaluation. According to doctors, the defendant is prone to alcohol abuse and has a tendency to act out under the influence of alcohol or other drugs. He has

been diagnosed with alcohol use disorder (more commonly known as "alcoholism" or "alcohol addiction").

The mitigating circumstances used in the fictional crime are based off of a transcript from a real capital murder case adjudicated over 20 years ago in the state of Alabama. The details were changed to comply with the needs of the current research. No information included in the case information allowed for the identification of the real-life crime and trial used as inspiration for the creation of case material in this study.

Production of Expert Testimony

Two versions of scripted expert testimony were created for the purpose of this study. These scripts were loosely based off transcripts from expert direct and cross-examination from the sentencing phase of the aforementioned real-life capital murder trial. Both scripts contained the same information about the defendant's life and relevant mental health considerations. Expert Testimony II (see Appendix P) contained information about the defendant's substance use and tendency to act out while under the influence of alcohol. Here, the expert also explained the defendant is diagnosed with alcohol use disorder, as described by the Diagnostic and Statistical Manual of Mental Disorders, more commonly known as DSM-5 (American Psychiatric Association, 2013). Both testimony conditions included direct and cross-examination from defense and state attorneys questioning the mental health expert.

Once the scripts were created, a licensed clinical psychologist familiar with giving mental health testimony in court read and scrutinized both scripts. Suggestions to improve external validity were implemented by adjusting the text. For example, spontaneous verbal utterances

such as “uh” and “um” were inserted into the testimony lines to make the testimony seem more realistic.

The initial plan for production of expert testimony included videotaping a live mock expert reading the testimony scripts included in Appendices O and P. Participants assigned to experimental conditions inclusive of mental health testimony were to watch one of two video versions of testimony while completing the online study materials. A mock expert was recorded in The Witness Research Lab at The University of Alabama. To simulate realistic courtroom conditions, the male mock expert wore a suit and sat in a simulated witness stand located in the Witness Research Lab at The University of Alabama. The American flag was visible against a background of African mahogany wood as the expert read simulated testimony from the scripts created for the purpose of this study. There was no particular reason why a male was chosen for the gender of the expert witness, although, expert witness gender has been shown to make a significant difference in several studies of mock juror ratings of testimony credibility (e.g., Neal & Brodsky, 2008; Boyle & Brodsky, 2013). The important aspect with regard to expert gender was that it was kept constant across both testimony-inclusive conditions. Thus, a male was chosen to play the part of expert witness. Prior to video recording, the mock expert was given a script of the testimony and asked to thoroughly study it so he would be somewhat familiar with the speech. Two separate videos were recorded with the mock expert reading lines from a teleprompter. The voices of a judge and two different attorneys could be heard off camera reading their respective lines included in transcripts.

Certain non-verbal behaviors, and eye contact in particular, have been empirically studied, and a significant influence on jury decision-making and juror ratings of expert witness

credibility was uncovered (Boccaccini & Brodsky, 2002; Neal & Brodsky, 2008). In the current study, video recordings of expert testimony were examined and some problems were identified with respect to the mock expert's non-verbal behavior. Specifically, the mock expert's eyes appeared to be scanning written text from the teleprompter off screen. A study by Neal and Brodsky (2008) looked at eye contact behavior in expert witnesses, and examined an interaction effect between eye contact behavior and gender. Male experts with high eye contact garnered higher ratings of expert witness credibility from a sample of mock jurors. For female expert witnesses, ratings of credibility did not differ across three different eye contact conditions. There were concerns the atypical eye movements, along with other extraneous variables (e.g., mock juror appearance, gender, vocal pitch) may unduly influence scores on the dependent variables. Thus, the video testimony was not utilized for this experiment. Text versions of the testimony were created to visually look like a courtroom transcript. For instance, numbers were added to lines and the font was produced to look similar to what would be used on a real courtroom transcript. The images of the expert testimony used in both experimental conditions inclusive of mental health testimony can be found in Appendices O and P.

Pilot Testing

An informal pilot test using two of the researcher's lab members was conducted in order to measure the approximate amount of time it would take to participate in this study. Times of completion were measured for two experimental conditions, one containing expert witness testimony and one without expert witness testimony. No data from the experimental measures were collected from this informal pilot study. The version of the study requiring the participant to read a testimony transcript took approximately 26 minutes to completion. The version without

testimony took 10 minutes of time to complete. It was determined participation in experimental conditions exposed to expert testimony would require, in most cases, no longer than 30 minutes. Therefore, the web announcements for both community and undergraduate samples, and associated informed consent screens, indicated the study would require no more than 30 minutes of the subject's time.

Recruitment

Participants recruited through The University of Alabama's Psychology Subject Pool signed up for this study through the subject pool website in order to gain research credits in fulfillment of Introduction to Psychology course requirements. All students in Psychology 101 classes at The University of Alabama are required to either participate in nine hours, or nine "credits," of research. As an alternative to participating in research, students can choose to write short papers during the semester. For their participation in the current study, students received one research credit. Students received no other incentives for participation. On the subject pool website, students read a recruitment announcement for this study (see Appendix A). They were then directed to a hyperlink to access the Qualtrics website containing study materials.

Participants in the community sample were recruited through Amazon.com's Mechanical Turk (MTurk). MTurk is a web-based marketplace tool used by sellers and researchers to obtain public feedback via online tasks and surveys. This surveying tool has been found to produce more externally valid samples of participants than college student samples (Buhrmester, Kwang & Gosling, 2011). An announcement was posted to the MTurk website enlisting approximately 350 subjects. The approximate time commitment (30 minutes) and monetary incentive (\$0.25) was included in this announcement. Potential participants were also informed

they must be citizens of the United States and at least 18 years of age to complete the study. Participants were also instructed to keep the window containing the recruitment announcement open while completing the study through the Qualtrics website. They were informed that in order to receive their monetary incentive for completing the study, they would need to provide a four-digit code given to them at the end of the experimental materials. This code was randomly generated by Qualtrics and allowed the researcher to match up data with MTurk participants in order to check that participants fully completed materials and met study requirements before being awarded the \$0.25 monetary incentive. The text of the MTurk recruitment announcement is located in Appendix B. After agreeing to participate in the study, participants were directed via hyperlink to the Qualtrics website containing study materials.

Subjects

In total, this study involved 705 participants recruited from two different sources. Prior to collecting data, a power analysis was conducted to determine how many participants were needed for recruitment (Faul, Erdfelder, Buchner & Lang, 2007). Using a small effect size of $F = 0.20$, a significance level of $p = .05$, and a power of .95 (1 – beta), it was estimated that at a minimum, 327 participants were necessary for the current study. 354 college students, along with 351 community members recruited through MTurk, made up the total sample. The 705 participants utilized in this study exceeded the above-mentioned requirements and this number was determined sufficient to uncover significant effects. During the planning stages of this project, the Institutional Review Board (IRB) at The University of Alabama was accepting studies utilizing Amazon's MTurk on a case-by-case basis. In order to ensure the study would be completed in a timely fashion, a sample of over 350 subjects was recruited from the

Psychology Subject Pool at the University of Alabama in case IRB approval was not obtained for use of MTurk. In the end, the IRB approved use of MTurk for the purpose of the current study. Thus, samples were obtained from the two sources and combined into a total size of 705 participants. IRB approval for the current study can be viewed in Appendix T.

The total sample of college students and community members included 229 males (32.50%) and 476 females (67.50%). Participants identified themselves as White/Caucasian (83.50%), Black/African-American (7.70%), Asian-American (2.60%), Hispanic/Latino (3.80%), Native American (0.10%), Biracial (1.70%) and Other (0.60%). With regard to education, participants indicated achievement of Some High School (0.60%), a High School Diploma/GED (4.80%), Some College (67.90%), a Bachelor's Degree (17.00%), a Master's/Doctoral Degree (9.50%), or Other (0.10%). Participants ranged in age from 18 to 71 years old, with a mean age of 27.91 years old and a standard deviation of 12.79 years. Along with basic demographic questions, this study asked participants whether they had been called for jury duty and if so, whether they served on a jury. In response to this query, 217 participants, or 30.80% of the sample, reported they had been called for jury duty in the past. Of those 217 participants, 54 individuals representing 7.70% of the total sample reported they had served on a jury.

Concerns have been raised in the literature surrounding mock trial research and the use of college student subject pools. McCabe et al. (2010), for instance, conducted a study of juror decision-making during a mock civil commitment hearing. Results between a sample of college students and a sample of more representative mock jurors were compared. McCabe et al. (2010) highlighted some important differences between the two sample types. Students scored higher on measures of need for cognition. Also, students' verdicts in the commitment hearing were

significantly correlated with their cognitive processing style, while the more representative sample did not demonstrate this same association. The representative sample was found to be more punitive, as well as more persuaded by clinical expert testimony. Further, the gender gap in mock juror decision-making was greater for the representative sample as compared to the college student sample. In a previously-mentioned study by Maggard et al. (2012), both a sample of students and a sample of non-students, or “residents” were assessed with regard to their views of the death penalty. Despite finding only “modest” differences between the two sample types, authors asserted that student versus non-student status was not significantly predictive of support for the death penalty.

As noted, there exists contradictory evidence regarding whether college student samples yield significantly different results than more representative samples within the context of mock juror studies. Despite growing concern in the literature, student samples are frequently utilized out of convenience. Many students are required to volunteer as participants in empirical research on campus in order to fulfill course requirements. When undertaking juror decision-making studies, Diamond (1997), as cited in McCabe et al. (2010), recommended the following “two-stage approach” to data analysis:

In the first stage, trial simulation data would be collected from student mock jurors, and in the second, from more venire-representative mock jurors. Confirmation of first stage findings would bolster the generalizability of results while disparate findings would assist in the development of a theory accounting for differences between these two populations.
(p. 731)

Based on the above suggestion, significant results uncovered during the data analysis stage of the current research were further explored to compare potential differences between the college versus community sample types. This exploration of sample differences is presented in the Results section.

Procedures

Participants recruited through The University of Alabama Psychology subject pool and MTurk each read an announcement briefly describing this study. They indicated willingness to participate by clicking a hyperlink that opened the Qualtrics website containing all study materials. Each participant was asked to read an information screen outlining participants' rights with regard to confidentiality and withdrawal from the study (see Appendices C & D). The information screen stated that the study explored how different aspects of a criminal trial affect jurors' decisions in a fictional case. Contact information for researchers was also included in information provided to potential respondents. A waiver of the requirement to include an explanation of the full purpose of the study was obtained from the The University of Alabama's IRB in order to prevent the study manipulation from being compromised.

Willing and interested participants then clicked the appropriate button to move forward in the study. Upon completion of a demographics questionnaire and assuming the death qualification was met, all participants were provided with a case summary and given juror instructions as well as aggravating and mitigating circumstances relevant to the hypothetical capital murder case. Some participants were exposed to expert mental health testimony in the form of a simulated courtroom transcript. All participants completed five instruments. These included the aforementioned demographics questionnaire and death qualification screener, the

Punitive Orientation Scale (PUN), Michigan Alcoholism Screening Test (MAST), Social Distance Scale (SDS) and the juror decision-making questionnaire (inclusive of a continuous sentence scale and a dichotomous rating of sentencing decision). All participants completed study materials in their own time and place over the internet. They were not required to physically appear at a research laboratory in order to complete the study.

After participants read the case information screen and completed the demographics questionnaire and death-qualification screener, assuming they were death qualified, they moved on to complete study materials in a randomized order (accomplished through the use of Qualtrics' randomized order option). Participants were exposed to either the Punitive Orientation Scale (PUN), Social Distance Scale (SDS), Michigan Alcoholism Screening Test (MAST) or one of two case information screens (dependent on assigned experimental condition).

If the randomly-assigned experimental condition included expert testimony, the testimony transcript was presented immediately subsequent to the case information screen no matter where in the order the case information screen showed up. Case information screen or case information screen plus mental health testimony was then followed by a quality assurance questionnaire and juror decision-making questionnaire (see Appendices Q & R). For each participant, the quality assurance questionnaire and juror decision-making questionnaire were placed immediately after all case-relevant information (case information screen or case information screen plus expert testimony transcript) so participants would have case details fresh in their mind while responding to dependent measures.

Study materials were randomized in the above-mentioned fashion due to concern that the ordering of materials might artificially impact data collected. For instance, in the planning phase

of this project, concern was raised that by placing the MAST after case information and expert testimony, information about the defendant's alcohol use disorder might make participants conscientious of their own drinking behavior as a variable of interest, thus affecting scores on the MAST. Other issues regarding ordering of materials came up as well. By placing the SDS before case information, particularly case information inclusive of the defendant's alcohol use disorder, participants may have been made aware that alcoholism was a variable of interest. Since it was unclear if and how ordering of materials would affect data, these materials were randomized in order to flush out any contamination. The large sample size also helped to diminish extraneous effects related to ordering of materials and measures.

Upon completion of the study, participants viewed a debriefing/second consent screen, which provided information on the full purpose of the study. This screen also explained the reason for lack of full disclosure prior to beginning of the study.

Materials

Research recruitment announcement. Both The University of Alabama (UA) Subject Pool website and MTurk recruitment announcement informed potential participants of a brief description of the study, incentives and approximate time commitment (See Appendices A & B). From the recruitment announcement, participants opened the Qualtrics website, signifying their agreement to complete the study.

Participant information screen. The participant information screen offered subjects all relevant information they needed in order to make an informed decision regarding their involvement in this study (see Appendices C & D). It included information about the study purpose, procedures, benefits/risks, confidentiality, withdrawal, and alternative options to

participation. It also addressed possible questions and concerns. Participants were required to click a link to indicate their informed consent and agreement to participate in the study.

Case information screen. Two case information screens were created for the purpose of this study (see Appendices M & N). Both versions of the case information screen described the commission of a crime during which the defendant kills one female victim and seriously injures another. In Case Information II (found in Appendix N), the defendant, Timothy Spencer, was described as “a heavy drinker since the age of 16.” Additionally, information was included regarding the defendant’s evaluation at a state psychiatric hospital. Specifically, in the mitigating circumstances section, it was noted that “the defendant is prone to alcohol abuse and has a tendency to act out under the influence of alcohol or other drugs.” The defendant was then given a formal diagnosis of alcohol use disorder, more commonly known as “alcoholism.” Both Case Information I and Case Information II included the same juror instructions regarding the tasks involved in the sentencing phase of the capital murder trial. The same aggravating circumstances were laid out in both versions of the information screens. Mitigating circumstances presented by the defense were the same for both versions, with the only difference being the defendant’s alcohol use disorder diagnosis and relevant details added to Case Information II.

Some participants in this experiment were exposed to expert mental health testimony via a simulated courtroom transcript. For participants assigned to view expert testimony, the end of the case information screen read: “The defense presents the following expert testimony from a clinical psychologist.” An example of this is shown in Appendix N, while Appendix M

represents a slightly different case information screen, which participants saw if they were not assigned to an experimental condition inclusive of expert witness testimony.

Expert mental health testimony transcripts. Informal pilot testing revealed that on average, it would take most people no longer than 10 minutes to read either of the two expert testimony transcripts. Although expert mental health testimony would not typically be as brief in a real trial situation, stimuli for the purpose of this study were kept brief in order to ensure participant cooperation and attention. In addition, this stimulus was kept brief to reduce participant workload considering the small incentives offered (i.e., one research credit for students or \$0.25 for MTurk participants).

Quality assurance questionnaire. Each completed questionnaire was scrutinized with regard to how long participants took to complete study materials. If completion time was less than 10 minutes, especially for conditions inclusive of expert testimony, the data was considered qualified for dropping, depending on answers to quality assurance questions. During any online study, there is risk that participants will not cooperate with the experiment. In particular, when participants are asked to read or watch study materials, there is a chance they will not fully attend to stimuli, compromising their responses to measures and adversely affecting data. A number of measures were taken to ensure quality responses from participants whose data was ultimately included in this study. Firstly, as stated earlier, pilot testing revealed this study took between 9 and 26 minutes to complete, depending on whether study condition was inclusive of expert testimony. If respondents completed the full study in less than 10 minutes, answers were further scrutinized to see if the participant had paid attention to study materials. One such precautionary step included the use of a quality assurance questionnaire placed after all case-relevant material.

This questionnaire asked four different questions about the material the participant had just viewed. For instance, a question was included that asked about the nature of the defendant's relationship with his father. Other questions were included that someone with a reasonable working memory, who also paid adequate attention to study materials would know.

A cut-off of one question was used to assure quality of responses. In other words, if a respondent incorrectly answered more than one question on the quality assurance questionnaire, data were removed from the results of this study. MTurk participants submitting poor-quality response sets were easily identifiable via the unique four-digit code they provided. In such cases, the participant was not awarded the monetary incentive of \$0.25. They were also sent a message letting them know their answers deemed them ineligible to receive compensation because they did not attend closely enough to study materials. Responses from 19 different individuals were deemed inadequate based on the quality assurance cut-off. These data were not included in final results and analysis. See Appendix Q to view the quality assurance questionnaire utilized in this study. See Appendix S to view the message sent to participants whose data was deemed ineligible for inclusion in results due to insufficient time spent on materials and/or incorrect answering of more than one quality-assurance query.

Debriefing/second consent screen. Upon completion of this study's measures, a debriefing screen and second consent form followed (see Appendices E & F). This screen provided information about the true nature of the study, variables of interest, and why it was necessary to not reveal this information prior to participation in the study. Here, participants were also provided contact information for the primary investigators and The University of Alabama's research compliance officer in case any issues of concern arose.

Alternative debriefing. Some respondents were deemed unsuitable for this experiment due to one or more of their answers on the death qualification screener (See Appendix I). Respondents that were “screened out,” or not death-qualified, were directed to an alternative debriefing screen (see Appendices G & H). These respondents were thanked for their time and told, “We apologize but your responses indicate that you do not meet qualifications to continue with this study.” Participants “screened out” from the student sample were notified they would still receive one credit toward course requirement, per the rules of The University of Alabama’s Psychology Subject Pool. Community sample participants recruited through MTurk were also notified of their disqualification. They were told they would not be awarded financial compensation because they were not death-qualified.

Measures

Demographics questionnaire and death qualification screener. The demographics questionnaire collected participant information regarding age, gender, race, education level and jury pool status (see Appendix I). These data were used to describe sample characteristics. Certain demographic information was also included in exploratory analyses.

The same survey screen used to collect demographic information was used to assess death qualification of potential participants per the criterion established in *Witherspoon v. Illinois* (391 U.S. 510, 1968), which was further refined in 1985 per *Wainwright v. Witt* (469 U.S. 412). Screening potential participants for death qualification ensured all data came from participants who: (1) were not categorically opposed to imposing capital punishment; (2) were not of the belief that the death penalty must be imposed in all instances of capital murder; and (3) would consider life imprisonment as a potential sentence in a capital murder case. Those “screened

out” through the death qualification process were directed to the Alternative Debriefing Screen (See Appendix G or H). The Alternative Debriefing Screen thanked potential participants for their time and willingness to complete the study. It was explained that their responses rendered them ineligible to complete the full experiment. Students recruited through The University of Alabama’s Psychology Subject Pool were notified they would still receive one credit (hour) for their willingness to participate. Respondents recruited through Amazon.com’s MTurk were not awarded monetary compensation if deemed ineligible through this screening process, and they were informed of this in the Alternative Debriefing Screen found in Appendix H.

Punitive orientation scale (PUN). The PUN is a 15-item scale measuring the personality trait of punitiveness (Smith & Capps, 2000). Punitiveness, as measured by the PUN, “consists of a distinct personality trait relating to the treatment of children/physical punishment, advocating severe punishments for those convicted of crimes, and a general tendency to opt for punitive actions over leniency” (Capps, 2002, p. 265). The measure includes statement items such as: “I think private citizens should take matters into their own hands if the courts are unwilling to punish criminals properly.” Items are answered on a 9-point Likert scale (-4 *Strongly disagree* to +4 *Strongly agree*). All PUN items were converted to positive values and summed into a PUN total score prior to data analysis. Theoretically, punitiveness is related to other personality traits such as authoritarianism and social dominance. Capps (2002), in an examination of the PUN, found a 0.45 positive correlation between PUN scores and scores on the Right-Wing Authoritarianism Scale (RWA). A 0.49 positive correlation between the PUN and the Social Dominance Orientation Scale (SDO) was also uncovered. Individuals scoring high on the RWA or SDO are likely to score high on the PUN (Capps, 2002). It should be noted

one item on the PUN, item 15, can be interpreted as tautological to the dependent variable in this study. Despite this, item 15 was maintained to protect the integrity of the measure, as there are no known empirical studies of the utility of the PUN and its psychometric properties when specific items are eliminated. The PUN is a relatively brief measure of respondents' punitive tendencies (See Appendix J). The measure appears to predict scores on other measures of related personality traits integral to juror decision-making in a capital murder case. Capps (2002) reported reliability of the scale as a Cronbach's alpha of 0.70. In the current study, the Cronbach's alpha coefficient was 0.63.

Social distance scale (SDS). Social distance was measured using the Social Distance Scale (Link, Cullen, Frank & Wozniak, 1987). The SDS contains seven items assessing desire for social distance from persons with mental illness (see Appendix K). Each item presents a different scenario detailing social interaction with a mentally ill individual (e.g., "How would you feel having a person with severe mental illness as your neighbor?"). Respondents used a 4-point Likert-type scale (0 *Definitely willing* to 3 *Definitely unwilling*) to indicate their willingness for each interaction. The total score on the measure represented the variable, Social Distancing, in the current study. High scores indicate a greater desire to separate oneself from a person with mental illness. The SDS demonstrates relatively high internal consistency, with a Cronbach's alpha of 0.75 (Penn et al., 1994). The Cronbach's alpha coefficient for the current study was 0.81. The SDS is used frequently in vignette studies. More specifically, it has been used in studies examining stigma toward those displaying problems with substance abuse (e.g., Janulis, Ferrari & Fowler, 2013). For the purpose of this study, the individual described in each

item scenario/vignette was an alcoholic. Respondents indicated their preferences for interaction with the person described in each of the seven scenarios.

Michigan alcoholism screening test (MAST). Participants' alcoholism was captured via the variable, Juror Alcoholism, and this was measured with the self-administered version of the Michigan Alcoholism Screening Test, or MAST (Selzer, 1971). The MAST consists of 22 true/false questions, each inquiring about alcohol usage and associated behaviors. The MAST is one of the most frequently and widely used instruments to assess alcohol abuse severity (Dawe, Loxton, Hides, Kavanagh & Mattick, 2002). Scores on the MAST are said to correlate well with other measures of alcoholism and clinicians' ratings of alcoholism (Laux, Newman & Brown, 2004). MAST respondents receive a score of 0-22, with higher scores indicative of more problematic drinking behavior. A common criticism of the MAST and other self-report alcohol and drug screening instruments is that respondents may not accurately report alcohol use behaviors due to impression management. Selzer et al. (1975) analyzed scores on the MAST and the Deny-Bad scale of the Crowne-Marlow Social Desirability Scale. Researchers concluded that the relationship between the two measures was weak. It was concluded that in general, respondents' efforts at impression management did not adversely affect the validity of the MAST (Dawe et al., 2002). The current study did not require participants to come to a laboratory and meet a researcher. Participants completed the MAST and all other study materials in their own private space. This attenuated the risk of data contamination due to impression management. The MAST is relatively brief. It exists in the public domain and may be used free of charge with appropriate acknowledgment of source (Dawe et al., 2002). The MAST is found in Appendix L.

Selzer et al. (1975) reported high internal consistency, with an alpha coefficient of 0.95. In the current study, the Cronbach's alpha coefficient was 0.74.

Juror decision-making questionnaire. Participants in this study were asked to report, on a 100 point Likert-type scale, their initial feelings toward sentencing for the defendant, with 100 equal to the death sentence and 0 signifying life imprisonment without the possibility for parole. Participants responded by physically sliding a bar on a scale of 0 to 100, representing their initial inclination toward punishment. The sliding scale with a visual representation of the slider used by participants is found in Appendix R. Scores represented the continuous dependent variable used in this study, Sentence Scale. Participants were also asked for a dichotomous sentencing decision. This was representative of the second dependent variable used in the current study, Sentencing Decision. Participants were instructed to make a choice of either Life in Prison or Death. Finally, participants were also asked, via free text response box, which factor or factors were most influential in their decision process. This data was collected to use for potential qualitative analyses in future research. The juror decision-making questionnaire is located in Appendix R.

Protection of Human Subjects

Informed consent. Prior to participation, all subjects were provided with a consent explaining the general purpose of the study, the approximate amount of time required, the procedures, and the risks and benefits associated with participation. It was explained that participation was voluntary and that all information gathered from the study will be kept confidential. Potential participants were also provided with contact information for the

compliance officer in case they had concerns. The full purpose of the present study was not detailed at this point in the experimental process so as not to compromise study variables.

Privacy and confidentiality. In order to participate in the present study, recruited subjects went to a website, read information, potentially viewed simulated case testimony and filled out questionnaires individually to ensure privacy during data collection. Names of participants from the college student sample were recorded by the research pool administrator for the sole purpose of awarding class credit to those who took part in the study. Participant names were not kept or linked to any of the experimental materials. Participants from the community sample recruited via MTurk were not asked to provide their names in order to ensure confidentiality. There was no identifying information of any kind on data collected that would allow the researcher, or anyone else, to determine the identity of individuals who completed the study. Only the investigators associated with this study have access to data collected. The de-identified raw data will be stored electronically in a locked office for five years in compliance with the American Psychological Association's research standards.

Risk/benefit ratio. There were limited risks to the participants with procedures in place to deal with any problems. The benefits of learning from the research outweighed the risks associated with this study. Therefore, this study had minimal risks with no effect on participants choosing to take part in this study. There were minimal foreseeable risks associated with participation in this study beyond what people encounter in everyday life. Upon completion of the study, all participants were debriefed about the full purpose of the research and were given the contact information of the researchers, as well as contact information for a licensed clinical

psychologist in case there were concerns or complaints of residual psychological effects. The University of Alabama IRB approval for the current research is contained in Appendix T.

3. RESULTS

Preliminary Analyses

Primary and exploratory independent variables included Expert Testimony (coded as 1 = Present, 2 = Absent) and Defendant Diagnosis (coded as 1 = Present, 2 = Absent), as well as Gender (coded as 1 = Male, 2 = Female), Race (1 = White, 2 = Non-white), Punitiveness (as measured by the PUN), Social Distancing (as measured by the SDS), Juror Alcoholism (as measured by the MAST) and Sample Type (coded as 1 = College, 2 = Community). Both the continuous Sentence Scale (0 to 100) and dichotomous Sentencing Decision (coded as 1 = Life in Prison, 2 = Death) comprised the dependent variables. The number of participants included in each randomly-assigned experimental condition are displayed in Table 1.

Preceding data analysis, descriptive statistics were computed for each variable of interest. Descriptive statistics including all categorical and continuous variables for the total sample ($N = 705$), as well as college ($n = 354$) and community ($n = 351$) samples are located in Tables 2 through 7. Data was examined for violations of relevant assumptions for all parametric testing (i.e., hierarchical and logistic regressions, independent samples t-tests and Chi-square tests for independence). Firstly, the sample size of 705 was deemed adequate given the number of independent variables included in each parametric test (Tabachnick & Fidell, 2013). Since kurtosis and skewness values typically prove too sensitive with large sample sizes, a visual inspection of residual and scatter plots indicated the assumptions of normality, linearity and homoscedasticity were satisfied for all variables of interest with the exception of Juror

Alcoholism, as measured by scores on the MAST. The distribution of MAST scores was both positively skewed and leptokurtic, with data clustering at the low end of values. A log transformation greatly improved the symmetry of the distribution in preparation for parametric analyses. The assumption of singularity was met. The independent variables included in this study were not a combination of other independent variables. An examination of correlations between scales (see Tables 8, 9 and 10) revealed no independent variables were overly correlated, and collinearity statistics (i.e., Tolerance and VIF scores) were all within acceptable limits, indicating the assumption of multicollinearity was satisfied. An examination of the Mahalanobis distance scores indicated no multivariate outliers (Pallant, 2007).

The reliability of empirically-derived measures including the Punitive Orientation Scale (PUN), Social Distance Scale (SDS) and Michigan Alcoholism Screening Test (MAST) were calculated using Cronbach's alpha (α). The internal consistency of the aforementioned measures was deemed adequate. Cronbach's alpha coefficients for each of these scales are presented in the Measures section.

Hypothesis Testing

The following section provides results for the two main hypotheses of this study. Beyond total sample results, data were further broken down into separate analyses for college and community participants to determine whether uncovered patterns held true for each subsample. To control for Type I error across multiple tests, a Bonferroni adjustment was made by dividing the $p = 0.05$ significance value by the number of tests conducted (in this case, three). For all group comparisons, significance was established at a more conservative 0.02 alpha level in order

to attenuate problems due to multiple comparisons (Pallant, 2007). Exploratory analyses not pertaining directly to a main hypothesis are discussed in the Exploratory Analyses section.

Hypothesis One

Total sample. A three-stage hierarchical multiple regression was used to assess the relation between Defendant Diagnosis and Sentence Scale scores, moderated by Expert Testimony and Juror Alcoholism (see Table 11). The analysis was conducted including three independent variables at Step 1, the three different pairs of two-way interaction terms at Step 2, and finally, the three-way interaction term at Step 3, in accordance with procedures suggested by Aiken and West (1991). Step 1 of the model explained 1.50% of the variance in sentencing decision, $F(3, 701) = 3.63, p = .013$, with only Expert Testimony found to be statistically significant. Expert Testimony recorded the highest and only significant beta value (beta = 0.11, $p = .003$) between the three independent variables. The entry of all three possible two-way interactions at Step 2, $F(6, 698) = 2.00, p = 0.063$, did not explain any significant additional amount of the variance in Sentence Scale scores, R squared change = 0.002, F change (3, 698) = 0.39, $p = 0.757$. The entry of the three-way interaction term at Step 3 also did not explain a significant amount of any additional variance, R squared change = 0.001, F change (1, 696) = 0.98, $p = 0.324$. Hypothesized interactions terms did not significantly increase the explanation of variance in Sentence Scale scores. There was a significant main effect of Expert Testimony uncovered in Step 1 of this model, and this main effect was not qualified by any interaction included in the regression. The dependent variable was Sentence Scale, representing mock jurors' inclination toward life imprisonment versus the death penalty on a continuous scale ranging from 0 (Life in Prison) to 100 (Death). The mean for the dependent variable was 7.07

points higher for participants not exposed to testimony as compared to those included in the Expert Testimony Present condition.

College student sample. The four-stage hierarchical regression was repeated using the college student subsample only (see Table 12). Step 1 of the model explained 3.20% of the variance in sentencing decision, $F(3, 350) = 3.82, p = 0.010$, with only Expert Testimony found to be statistically significant. Expert Testimony recorded the highest and only significant beta value (beta = 0.16, $p = 0.002$) between the three independent variables included at this step. After entry of all possible two-way interactions at Step 2, the model did not offer significant additional explanation of the variance in Sentence Scale, R^2 change = 0.002, F change (3, 347) = 0.26, $p = 0.850$. The entry of the three-way interaction term at Step 3 did not explain significant additional variance in sentencing decisions, $F(7, 346) = 1.77, p = 0.09$, R^2 change = 0.001, F change (1, 346) = 0.22, $p = 0.640$. No interaction terms offered a significant increase in explanation of variance in Sentence Scale scores. There was a significant main effect of Expert Testimony uncovered in Step 1 of this model, and this main effect was not qualified by any interaction included in the regression. Within the college student subsample, the mean score for Sentence Scale was 9.33 points higher for participants not exposed to expert mental health testimony (indicating more inclination toward the death penalty), as compared to those who were exposed to testimony.

Community sample. The four-stage hierarchical regression was repeated using the community subsample only (see Table 13). Step 1 of the model did not explain a significant amount of the variance in sentencing decision, $F(3, 347) = 1.22, p = 0.30$, and no predictors were found to be statistically significant. After entry of all three possible two-way interactions at

Step 2, the total variance explained by the model was not significant, $F(6, 344) = 1.15, p = 0.33$. The entry of the three-way interaction term at Step 3 did not explain a significant amount of the variance in the continuous dependent variable, $F(7, 343) = 1.10, p = 0.36$. No predictors offered significant contribution to the explanation of variance in Sentence Scale scores of community participants.

Hypothesis Two

Total sample. Hypothesis Two predicted Social Distancing would act as a mediator between Juror Alcoholism and Sentence Scale scores for participants exposed to the Defendant Diagnosis Present condition ($n = 341$). The proposed mediation model is depicted in Figure 1. The mediation model was tested via Hayes' PROCESS tool for SPSS (Hayes, 2013). With regard to PROCESS, Field (2013) noted that "computers make it easy for us to estimate the indirect effect (i.e., the effect of mediation) and its confidence interval." Thus, "this practice is becoming increasingly common," and is recommended over the Barron and Kenny (1986) approach (p. 411). Step 1 of the mediation model, the regression of Juror Alcoholism on Sentence Scale scores, ignoring Social Distancing, was not significant, $b = 4.84, t(339) = 0.54, p = 0.59$. Step 2 showed the regression of Juror Alcoholism on the mediator, Social Distancing, was significant, $b = -3.63, t(339) = -3.39, p < 0.001$. Step 3 of the mediation process showed that regression of the mediator on Sentencing Scale, controlling for Juror Alcoholism, was significant, $b = 1.19, t(338) = 2.66, p = 0.01$. Step 4 of the analysis revealed that, controlling for the mediator, Juror Alcoholism was not a significant predictor of Sentence Scale scores, $b = 9.17, t(338) = 1.02, p = 0.31$. A Sobel test was conducted to measure the indirect effect of Juror Alcoholism on Sentence Scale. In this case, the effect size was -4.33 , with a 95% confidence

interval, which did not include zero ($z = -2.04, p = 0.04$); the effect size was significantly greater than zero at $\alpha = .05$.

There are several necessary components to confirming the significance of Social Distancing as a mediator in the proposed model. First of all, data must show that Social Distancing is caused by Juror Alcoholism. Social Distancing must also significantly influence Sentence Scale scores. Furthermore, Juror Alcoholism must lose its significance when the mediator (Social Distancing) is included in the model. With this in mind, only one of the previously mentioned requirement was unfulfilled. A significant relation was uncovered between Juror Alcoholism and Social Distancing. There was a significant relation between Social Distancing and Sentence Scale scores in the presence of Juror Alcoholism. The meaningful reduction of the relation between Juror Alcoholism and Sentencing Scale in the presence of Social Distancing was also confirmed. No direct causality was revealed between Juror Alcoholism and the dependent variable, Sentence Scale. Thus, the mediation model proposed in Hypothesis Two cannot be confirmed for data collected from the total number of participants exposed to the defendant's alcohol use disorder.

College student sample. A test of the mediation model was repeated using only the subset of mock jurors who were college students and who were exposed to the Defendant Diagnosis Present condition ($n = 183$). In Step 1 of the mediation model, the regression of Juror Alcoholism on Sentence Scale scores, ignoring Social Distancing, was not significant, $b = 16.11, t(181) = 1.29, p = 0.20$. Step 2 showed that the regression of Juror Alcoholism on the mediator, Social Distancing, was significant, $b = -6.21, t(181) = -3.97, p < 0.001$. Step 3 of the mediation process showed that regression of the mediator on Sentencing Scale, controlling for Juror

Alcoholism, was not significant, $b = 1.00$, $t(180) = 1.70$, $p = 0.09$. Step 4 of the analysis revealed that, controlling for the mediator, Juror Alcoholism was not a significant predictor of Sentence Scale scores, $b = 22.33$, $t(180) = 1.73$, $p = 0.09$. A Sobel test was conducted to measure the indirect effect of Juror Alcoholism on Sentence Scale. In this case, the effect size was -6.22, with a 95% confidence interval, which did not include zero ($z = -1.52$, $p = 0.13$); the effect size was not significantly greater than zero at $\alpha = .05$.

Drawing upon the requirements for confirming the significance of Social Distancing as a mediator in the above model, it was shown that two out of the four requirements were not fulfilled. A significant relation was uncovered between Juror Alcoholism and Social Distancing. The meaningful reduction in effect of the relation between Juror Alcoholism and Sentencing Scale in the presence of Social Distancing was also confirmed. There was no direct causality uncovered between Juror Alcoholism and the dependent variable, Sentence Scale. Likewise, no significant relation was found between Social Distancing and Sentence Scale scores in the presence of Juror Alcoholism. Thus, the mediation model proposed in Hypothesis Two cannot be confirmed for data collected from the college student subsample.

Community sample. Testing of the mediation model was repeated using only community participants exposed to the defendant's alcohol use disorder ($n = 158$). In Step 1 of the mediation model, the regression of Juror Alcoholism on Sentence Scale scores, ignoring Social Distancing, was not significant, $b = -4.02$, $t(156) = -0.31$, $p = 0.76$. Step 2 showed the regression of Juror Alcoholism on the mediator, Social Distancing, was not significant, $b = -1.58$, $t(156) = -1.08$, $p = 0.28$. Step 3 of the mediation process showed that regression of the mediator on Sentence Scale, controlling for Juror Alcoholism, was also not significant (per criterion

established by the Bonferroni adjustment), $b = 1.52$, $t(155) = 2.20$, $p = 0.03$. Step 4 of the analysis revealed that, in the presence of the mediator, Juror Alcoholism was not a significant predictor of Sentence Scale scores, $b = -1.61$, $t(155) = -0.13$, $p = 0.90$. A Sobel test was conducted to measure the indirect effect of Juror Alcoholism on Sentence Scale. In this case, the effect size was -2.41, with a 95% confidence interval, which did not include zero ($z = -0.89$, $p = 0.37$); the effect size was not significantly greater than zero at $\alpha = .05$. There was no significant relation, meaning no direct causality, uncovered between Juror Alcoholism and the dependent variable, Sentence Scale, in addition to no significant relation uncovered between Juror Alcoholism and Social Distancing. Therefore, the mediation model proposed in Hypothesis Two was not confirmed by results from this particular subsample.

Exploratory Analyses

A significant main effect of Expert Testimony on Sentence Scale was uncovered during testing of Hypothesis One. Upon further examination, it was found that the presence of mental health testimony significantly reduced scores on Sentence Scale for college students only. The influence of Expert Testimony on juror decision-making in a hypothetical capital murder case was explored further through additional analyses. Specific mock juror variables (i.e., Gender, Race and Punitiveness) established through empirical research to make a difference in capital sentencing were included in regressions in an attempt to build an effective model for predicting sentencing decisions. Results for the sample as a whole are included, then broken down by college and community subsamples. For each analysis, a Bonferroni adjustment was made by dividing the $p = 0.05$ significance value by the number of tests conducted (in this case, three) to control for Type I error across multiple tests.

A hierarchical multiple regression was employed to determine whether Expert Testimony made a significant contribution to predicting sentencing decisions, above and beyond certain mock juror demographic and personality variables. To examine a model to predict a categorical outcome of sentencing decision with two categories (Life in Prison and Death) a logistical regression was employed using a Forced Entry Method. Using this approach, four variables (Gender, Race, Punitiveness and Expert Testimony) were tested in one block to assess predictive ability.

Total Sample Results

Continuous sentencing scale. A hierarchical multiple regression assessed the ability of Expert Testimony and Defendant Diagnosis to predict mock jurors' responses to the continuous Sentence Scale, after controlling for the influence of Punitiveness, Gender and Race (see Table 14). Gender, Race and Punitiveness were entered at Step 1, explaining 8.90% of the variance in Sentence Scale scores. After entering Expert Testimony at Step 2, the total variance explained by the model was 10.10%, $F(4, 700) = 19.73, p < 0.001$. Expert Testimony explained a significant amount of additional variance (1.20%) in Sentence Scale scores, after controlling for Gender, Race and Punitiveness, $R^2 \text{ change} = 0.01, F \text{ change}(1, 700) = 9.57, p < 0.001$. In the final model, three out of the four independent variables made a statistically significant contribution. Punitiveness recorded the highest beta value (beta = 0.25, $p < 0.001$), followed by Gender (beta = -0.14, $p < 0.001$) and finally, Expert Testimony (beta = 0.11, $p < 0.001$). Race did not contribute significantly to the prediction of Sentence Scale scores in the model (beta = 0.005, $p = 0.88$).

Dichotomous sentencing decisions. Direct logistic regression was performed to assess the impact of a number of factors on the likelihood that respondents from the total sample ($N = 705$) would sentence the hypothetical defendant, Mr. Spencer, to death. The model contained four independent variables (Gender, Punitiveness, Race and Expert Testimony). The full model containing all predictors was statistically significant, $\chi^2(4, N = 705) = 40.74, p < 0.001$, indicating that the model was able to distinguish between respondents who chose life imprisonment for the defendant and respondents who chose the death penalty. The model as a whole explained between 5.60% (Cox and Snell R squared) and 8.70% (Nagelkerke R Squared) of the variance in dichotomous Sentencing Decisions, and correctly classified 79.40% of cases.

As shown in Table 15, only two of the independent variables made a unique and statistically significant contribution to the model, Punitiveness and Gender. The strongest predictor of selecting the death sentence was Gender, recording an odds ratio of 1.93. This means that male mock jurors were almost two times as likely to sentence the defendant to death than female mock jurors, controlling for all other factors in the model. The odds ratio of 1.04 for Punitiveness indicated that for every additional point scored on the PUN, mock jurors were 1.04 times as likely to choose Death, controlling for all other factors in the model.

College Student Sample Results

Continuous sentencing scale. A hierarchical multiple regression assessed the ability of Expert Testimony to predict college student participants' responses on a continuous Sentence Scale, after controlling for the influence of Punitiveness, Gender and Race (see Table 16). Punitiveness, Gender and Race were entered at Step 1, explaining 11.30% of the variance in Sentence Scale scores. After entering Expert Testimony at Step 2, the total variance explained

by the model as a whole was 13.70%, $F(4, 349) = 13.84, p < 0.001$. Expert testimony explained an additional 2.30% of the variance in Sentence Scale scores, after controlling for Punitiveness, Gender and Race, $R^2 \text{ change} = 0.02, F \text{ change}(1, 349) = 9.47, p < 0.001$. In the final model, three out of the four independent variables made a statistically significant contribution. Punitiveness recorded the highest beta value (beta = 0.28, $p < 0.001$), followed by Expert Testimony (beta = -0.15, $p < 0.001$) and finally, Gender (beta = -0.14, $p < 0.001$). Race did not contribute significantly to the prediction of responses on the continuous Sentence Scale (beta = -0.40, $p = 0.49$).

Dichotomous sentencing decision. Direct logistic regression was performed to assess the impact of a number of factors on the likelihood that respondents from the college sample ($n = 354$) would choose the death penalty. The model contained four independent variables (Gender, Punitiveness, Race, and Expert Testimony). The full model containing all predictors was statistically significant, $\chi^2(4, n = 354) = 30.03, p < 0.001$, indicating that the model was able to distinguish between respondents who chose Life in Prison and respondents who chose Death. The model as a whole explained between 8.10% (Cox and Snell R^2) and 15.00% (Nagelkerke R^2) of the variance in dichotomous Sentencing Decisions, and correctly classified 87.30% of cases.

As shown in Table 17, out of all the independent variables, only Punitiveness and Gender made unique and statistically significant contributions to the model. For college students, the strongest predictor of selecting Death was Gender, recording an odds ratio of 3.31. This means that male mock jurors were more than three times as likely to sentence the defendant to death than female mock jurors, controlling for all other factors in the model. The odds ratio of 1.05 for

Punitiveness indicated that for every additional point scored on the PUN, mock jurors were 1.05 times more likely to choose Death for the defendant, controlling for all other factors in the model.

Community Sample Results

Continuous sentencing scale. A hierarchical multiple regression assessed the ability of Expert Testimony to predict community participants' ($n = 351$) responses to a continuous Sentence Scale, after controlling for the influence of Punitiveness, Gender and Race (see Table 18). Gender, Race and Punitiveness were entered at Step 1, explaining 9.20% of the variance in Sentence Scale scores. After entering Expert Testimony at Step 2, the total variance explained by the model as a whole was 9.80%, $F(4, 346) = 9.40, p < 0.001$. Expert Testimony did not explain significantly more of the variance in Sentence Scale, after controlling for Gender, Race and Punitiveness, $R^2 \text{ change} = 0.007, F \text{ change}(1, 346) = 2.50, p = 0.12$. In the final model, only one out of the four independent variables made a statistically significant contribution (per Bonferroni adjustment criteria). Punitiveness recorded the highest beta value (beta = 0.27 $p < 0.001$). Gender (beta = -0.12, $p = 0.03$), Expert Testimony (beta = 0.08, $p = 0.12$) and Race (beta = 0.04, $p = 0.47$) each did not add significantly to the prediction of Sentence Scale scores.

Dichotomous sentencing decision. Direct logistic regression assessed the impact of several factors on the likelihood that community participants ($n = 351$) would choose Death via dichotomous Sentencing Decision. The model contained four independent variables (Gender, Punitiveness, Race and Expert Testimony). The full model containing all predictors was statistically significant, $\chi^2(4, n = 351) = 29.01, p < 0.001$, indicating the model distinguished between respondents who chose Life in Prison and respondents who chose Death. The model as

a whole explained between 7.90% (Cox and Snell R squared) and 11.40% (Nagelkerke R Squared) of the variance in dichotomous Sentencing Decision, and correctly classified 72.10% of cases.

As shown in Table 19, only one of the independent variables made a unique and statistically significant contribution to the model (Punitiveness), recording an odds ratio of 1.05. This means that for every additional point scored on the PUN, mock jurors were 1.05 times more likely to choose Death, controlling for all other factors in the model.

A Closer Look at the Influence of Expert Testimony

A main effect for Expert Testimony on Sentence Scale was uncovered in analyses including the entirety of this sample, as well as the college student subsample. Figure 2 displays mean differences on the continuous Sentence Scale for both college and community subsamples across both Present and Absent Expert Testimony conditions. The difference between scores on the continuous dependent variable for college students exposed to expert testimony ($n = 162$) and community participants exposed to expert testimony ($n = 164$) was further explored by way of an independent-samples t-test. An independent-samples t-test was also conducted to examine potential Sentence Scale score differences between college students not exposed to expert testimony ($n = 192$) and community participants not exposed to expert testimony ($n = 187$). Due to potential problems with multiple tests, a Bonferroni adjustment was made, establishing significance at the $p < .03$ level. For jurors exposed to expert testimony, Sentence Scale scores for college students ($M = 29.57, SD = 27.20$) were significantly lower than scores for community participants ($M = 37.88, SD = 33.02$), $t(324) = -2.48, p = 0.010$ (two-tailed). The magnitude of the difference in the means (mean difference = -8.30, 95% CI: -14.90 to -1.72) was considered

small to moderate (eta squared = 0.02). For jurors not exposed to expert testimony, no significant difference in continuous Sentence Scale scores was uncovered between the college student subsample ($M = 38.91, SD = 28.95$) and the community subsample ($M = 42.56, SD = 35.01$), $t(377) = -1.106, p = 0.269$.

Chi-square tests for independence were used to look at differences between jurors by Sample Type for both mock jurors exposed to expert testimony, and those not exposed to expert testimony. Due to potential problems with multiple tests, a Bonferroni adjustment was made, establishing significance at the $p < .03$ level. A Chi-square test for independence (with Yates Continuity Correction) indicated a significant association between Sample Type and Sentencing Decision for the mock jurors exposed to expert testimony, $\chi^2 = 8.97, p < 0.001$ (See Figure 3). This means that within the subgroup of mock jurors assigned to the Expert Testimony Present condition, the proportion of college students choosing the death penalty was significantly less than the proportion of community participants choosing Death. Within the college student group, 87.00% of participants chose a sentence of Life in Prison for the defendant, while 13.00% chose Death. Looking at community members who were exposed to expert testimony, 73.20% chose life imprisonment and 26.80% chose the death penalty. Using Cohen's (1988) criteria, the effect size of the association between the two variables (Sample Type and Sentencing Decision) was small to medium, phi coefficient = 0.20, $p < 0.001$.

A Chi-square test for independence (with Yates Continuity Correction) indicated a significant association between Sample Type and Sentencing Decision for the mock jurors not exposed to expert testimony, $\chi^2 = 14.919, p < 0.001$ (See Figure 4). This means that within the subgroup of mock jurors assigned to the Expert Testimony Absent condition, the proportion of

college students choosing the death penalty was significantly less than the proportion of community participants choosing Death. Within the college student group, 86.50% of participants chose a sentence of Life in Prison for the defendant, while 13.50% chose Death. Looking at community members who were not exposed to expert testimony, 69.50% chose life imprisonment and 30.50% chose the death penalty. Using Cohen's (1988) criteria, the effect size of the association between the two variables (Sample Type and Sentencing Decision) was small to medium, phi coefficient = 0.210, $p < 0.001$.

In order to bolster results showing Expert Testimony impacted Sentence Scale scores differently for college students than for community members, a two-way between-groups analysis of variance was conducted. The two-by-two ANOVA explored the impact of Sample Type and Expert Testimony on sentencing decision, as measured by the continuous Sentence Scale. The interaction effect between Sample Type and Expert Testimony was not statistically significant, $F(1, 701) = 0.972, p = 0.33$. There was a statistically significant main effect Expert Testimony, $F(1, 701) = 8.80, p = 0.003$; however, the effect size was small (partial eta squared = 0.01). Post-hoc comparisons indicated that the mean of Sentence Scale scores for the Expert Testimony Present group ($M = 33.75, SD = 30.50$) was significantly different than the Expert Testimony Absent group ($M = 40.71, SD = 32.09$). The main effect for Sample Type was also found to be statistically significant, $F(1, 701) = 6.42, p = 0.01$, with a small effect size (partial eta squared = 0.01). Post-hoc comparisons revealed the mean of Sentence Scale scores for the college students ($M = 34.64, SD = 28.50$) was significantly different than the community subsample ($M = 40.38, SD = 34.12$).

Table 1

Numbers of Participants Included in Each Experimental Condition

	Defendant Diagnosis Present	Defendant Diagnosis Absent	
Expert Testimony Present	<i>n</i> = 153	<i>n</i> = 173	<i>n</i> = 326
Expert Testimony Absent	<i>n</i> = 188	<i>n</i> = 191	<i>n</i> = 379
	<i>n</i> = 341	<i>n</i> = 364	

Table 2

Categorical Variables of Total Sample (N = 705)

Categorical Variables	Frequency	Percentage
Sample Type		
College	354	50.20
Community	351	49.80
Gender		
Male	229	32.50
Female	476	67.50
Race		
White	589	83.50
Black	54	7.70
Asian-American	18	2.60
Hispanic	27	3.80
Native American	1	0.10
Biracial	12	1.70
Other	4	0.60
Race (recoded)		
White	589	83.50
Non-white	116	16.50
Education		
Some high school	4	0.60
High school diploma/GED	34	4.80
Some college	479	67.90
Bachelor's degree	120	17.00
Master's or doctoral	67	9.50
Other	1	0.10
Called for jury duty		
Yes	217	30.80
No	488	69.20
Served on a jury		
Yes	54	7.70
No	651	92.30
Dichotomous Sentencing Decision		
Life in Prison	557	79.00
Death	148	21.00

Table 3

Continuous Variables of Total Sample (N = 705)

Continuous Variables	Min.	Max	<i>M</i>	<i>SD</i>	Mode	<i>Mdn</i>
Age	18	71	27.91	12.79	18	21
Punitiveness (PUN)	26	114	63.51	13.66	67	64
Juror Alcoholism (MAST)	0	17	1.35	1.95	0	1
Social Distancing (SDS)	1	21	14.92	3.89	17	15
Sentence Scale	0	100	37.49	31.54	0	32

Table 4

Categorical Variables of College Sample (n = 354)

Categorical Variables	Frequency	Percentage
Gender		
Male	105	29.70
Female	249	70.30
Race		
White	297	83.90
Black	34	9.60
Asian-American	7	2.00
Hispanic	9	2.50
Native American	0	0.00
Biracial	3	0.80
Other	4	1.10
Race (recoded)		
White	297	83.90
Non-white	57	16.10
Education		
Some high school	0	0
High school diploma/GED	0	0
Some college	354	100
Bachelor's degree	0	0
Master's or doctoral	0	0
Other	0	0
Called for jury duty		
Yes	15	4.20
No	339	95.80
Served on a jury		
Yes	5	1.40
No	349	98.60
Dichotomous Sentencing Decision		
Life in Prison	304	86.70
Death	47	13.30

Table 5

Continuous Variables of College Sample (n = 354)

Continuous Variables	Min.	Max	<i>M</i>	<i>SD</i>	Mode	<i>Mdn</i>
Age	18	23	18.60	0.90	18.00	18.00
Punitiveness (PUN)	29	114	66.15	12.80	67.00	66.00
Juror Alcoholism (MAST)	0	12	1.28	1.50	1.00	1.00
Social Distancing (SDS)	2	21	14.87	3.87	17.00	15.00
Sentence Scale	0	100	34.64	28.50	0.00	30.00

Table 6

Categorical Variables of Community Sample (n = 351)

Categorical Variables	Frequency	Percentage
Gender		
Male	124	35.30
Female	227	64.70
Race		
White	292	83.2
Black	20	5.70
Asian-American	11.00	3.10
Hispanic	18	5.10
Native American	1	0.30
Biracial	9	2.60
Other	0	0.00
Race (recoded)		
White	292	83.20
Non-white	59	16.80
Education		
Some high school	4	1.1
High school diploma/GED	34	9.70
Some college	125	35.60
Bachelor's degree	120	34.20
Master's or doctoral	67	19.10
Other	1	0.30
Called for jury duty		
Yes	202	57.50
No	149	42.50
Served on a jury		
Yes	49	14.00
No	302	86.00
Dichotomous Sentencing Decision		
Life in Prison	250	71.20
Death	101	28.80

Table 7

Continuous Variables of Community Sample (n = 351)

Continuous Variables	Min.	Max	<i>M</i>	<i>SD</i>	Mode	<i>Mdn</i>
Age	18	71	37.29	12.33	30	35.00
Punitiveness (PUN)	26	101	60.85	14.00	58	62.00
Juror Alcoholism (MAST)	0	17	1.42	2.35	0.00	1.00
Social Distancing (SDS)	1	21	40.38	34.12	13	15.00
Sentence Scale	0	100	14.97	3.93	0	34.00

Table 8

Correlations Between Variables for Total Sample (N = 705)

	Age	Gender	Race	Juror Alcoholism	Punitiveness	Social Distancing	Sentence Scale
Age							
Gender	-0.056						
Race	-0.049	-0.003					
Juror Alcoholism	-0.047	-0.117**	-0.029				
Punitiveness	-0.117**	-0.103**	-0.025	0.050			
Social Distancing	0.025	0.089*	0.153**	-0.171**	0.115**		
Sentence Scale	0.141**	-0.166**	0.001	0.035	0.264**	0.026	
Sentencing Decision	0.222**	-0.148**	-0.003	-0.034	0.200**	0.039	0.729**

** Correlation is significant at the 0.01 level (2-tailed)

* Correlation is significant at the 0.05 level (2-tailed)

MAST = Michigan Alcoholism Screening Test (Juror Alcoholism), PUN = Punitive Orientation Scale (Punitiveness), SDS = Social Distance Scale (Social Distancing), Sentence Scale = Continuous Sentencing Dependent Variable (Range 0-100), Sentence Decision = Dichotomous Dependent Variable (Life in Prison/Death)

Coding for Dichotomous Variables: Gender (1 = Male, 2 = Female), Race (1 = White, 2 = Non-white), Sentence Decision (1 = Life In Prison, 2 = Death Penalty)

Table 9

Correlations Between Variables for College Sample (n = 354)

	Age	Gender	Race	Juror Alcoholism	Punitiveness	Social Distancing	Sentence Scale
Age							
Gender	-0.274**						
Race	0.022	0.015					
Juror Alcoholism	0.059	-0.069	-0.054				
Punitiveness	0.030	-0.103	0.006	0.022			
Social Distancing	-0.062	0.106*	0.184**	-0.165**	0.187**		
Sentence Scale	0.055	-0.177**	-0.030	0.071	0.302**	0.064	
Sentencing Decision	0.080	-0.220	-0.036	-0.031	0.213**	0.039	0.614**

** Correlation is significant at the 0.01 level (2-tailed)

* Correlation is significant at the 0.05 level (2-tailed)

MAST = Michigan Alcoholism Screening Test (Juror Alcoholism), PUN = Punitive Orientation Scale (Punitiveness), SDS = Social Distance Scale (Social Distancing), Sentence Scale = Continuous Sentencing Dependent Variable (Range 0-100), Sentence Decision = Dichotomous Dependent Variable (Life in Prison/Death)

Coding for Dichotomous Variables: Gender (1 = Male, 2 = Female), Race (1 = White, 2 = Non-white), Sentence Decision (1 = Life In Prison, 2 = Death Penalty)

Table 10

Correlations Between Variables for Community Sample (n = 351)

	Age	Gender	Race	Juror Alcoholism	Punitiveness	Social Distancing	Sentence Scale
Age							
Gender	-0.004						
Race	-0.117*	-0.018					
Juror Alcoholism	-0.056	-0.157**	-0.010				
Punitiveness	0.048	-0.130*	-0.050	0.063			
Social Distancing	0.036	0.074	0.122*	-0.177**	0.06		
Sentence Scale	0.140**	-0.149**	0.025	0.016	0.278**	-0.008	
Sentencing Decision	0.151**	-0.083	0.017	-0.028	0.272**	0.036	0.801**

** Correlation is significant at the 0.01 level (2-tailed)

* Correlation is significant at the 0.05 level (2-tailed)

MAST = Michigan Alcoholism Screening Test (Juror Alcoholism), PUN = Punitive Orientation Scale (Punitiveness), SDS = Social Distance Scale (Social Distancing), Sentence Scale = Continuous Sentencing Dependent Variable (Range 0-100), Sentence Decision = Dichotomous Dependent Variable (Life in Prison/Death)

Coding for Dichotomous Variables: Gender (1 = Male, 2 = Female), Race (1 = White, 2 = Non-white), Sentence Decision (1 = Life In Prison, 2 = Death Penalty)

Table 11

Hierarchical Regression Analysis of Hypothesis One for Total Sample (N = 705)

Variables	<i>Model R²</i>	ΔR^2	β	<i>p</i>		
Step 1	0.015					
Expert Testimony					.112	0.003
Diagnosis					.043	0.265
Juror Alcoholism			.041	0.279		
Step 2	0.017	0.002				
Expert Testimony					-.010	0.949
Diagnosis					-.019	0.906
Juror Alcoholism					-.125	0.470
Testimony*Diagnosis					.030	0.854
Diagnosis*MAST					.061	0.679
Testimony*MAST	.160	0.300				
Step 3	0.018	0.001				
Expert Testimony					-.303	0.370
Diagnosis					-.312	0.355
Juror Alcoholism					-.466	0.228
Testimony*Diagnosis					.454	0.324
Diagnosis*MAST					.503	0.286
Expert Testimony*MAST					.615	0.207
Testimony*MAST*Diagnosis	-.536	0.324				

Table 12

Hierarchical Regression Analysis of Hypothesis One for College Sample (n = 354)

Variables	<i>Model R²</i>	ΔR^2	β	<i>p</i>		
Step 1	0.032					
Expert Testimony					.163	0.002
Diagnosis					-.007	0.887
Juror Alcoholism			.070	0.186		
Step 2	0.034	0.002				
Expert Testimony					.324	0.176
Diagnosis					.185	0.436
Juror Alcoholism					.172	0.485
Testimony*Diagnosis					-.180	0.437
Diagnosis*MAST					-.089	0.685
Testimony*MAST	-.058	0.808				
Step 3	0.035	0.001				
Expert Testimony					.105	0.841
Diagnosis					-.052	0.926
Juror Alcoholism					-.058	0.916
Testimony*Diagnosis					.150	0.840
Diagnosis*MAST					.233	0.747
Expert Testimony*MAST					.267	0.716
Testimony*MAST*Diagnosis	-.396	0.639				

Table 13

Hierarchical Regression Analysis of Hypothesis One for Community Sample (N = 351)

Variables	<i>Model R²</i>	ΔR^2	β	<i>p</i>		
Step 1	0.011					
Expert Testimony					.072	0.181
Diagnosis					.074	0.167
Juror Alcoholism			.025	0.642		
Step 2	0.020	0.009				
Expert Testimony					-.265	0.237
Diagnosis					-.210	0.336
Juror Alcoholism					-.339	0.166
Testimony*Diagnosis					.245	0.304
Diagnosis*MAST					.189	0.359
Testimony*MAST	.273	0.185				
Step 3	0.022	0.002				
Expert Testimony					-.621	0.168
Diagnosis					-.548	0.204
Juror Alcoholism					-.791	0.153
Testimony*Diagnosis					.747	0.214
Diagnosis*MAST					.745	0.248
Expert Testimony*MAST					.851	0.203
Testimony*MAST*Diagnosis	-.668	0.363				

Table 14

Exploratory Hierarchical Regression of Expert Testimony for Total Sample (N = 705)

Variables	<i>Model R²</i>	ΔR^2	β	<i>p</i>
Step 1				
Gender	0.089		-.140	< 0.001
Punitiveness			.249	< 0.001
Race			.007	0.850
Step 2				
Gender	0.101	0.012	-.140	< 0.001
Punitiveness			.250	< 0.001
Race			.005	0.880
Testimony			.111	0.002

Table 15

Exploratory Logistic Regression of Expert Testimony for Total Sample (N = 705)

	<i>B</i>	S.E. of <i>B</i>	Wald	<i>df</i>	<i>p</i>	Odds Ratio	95.0% C.I. for Odds Ratio	
							Lower	Upper
Race	0.002	0.258	0.000	1	0.990	1.002	0.604	1.661
Punitiveness	0.036	0.036	23.779	1	< 0.001	1.037	1.022	1.052
Gender	0.656	0.194	11.435	1	< 0.001	1.927	1.317	2.818
Testimony	-0.098	0.192	0.264	1	0.600	0.906	0.622	1.320

Table 16

Exploratory Hierarchical Regression of Expert Testimony for College Sample (n = 354)

Variables	<i>Model R²</i>	ΔR^2	β	<i>p</i>
Step 1				
Gender	0.113		-0.147	0.004
Punitiveness			0.287	< 0.001
Race			-0.030	0.556
Step 2				
Gender	0.137	0.023	-0.144	0.004
Punitiveness			0.283	< 0.001
Race			-0.035	0.487
Testimony			0.153	0.002

Table 17

Exploratory Logistic Regression of Expert Testimony for College Sample (n = 354)

	<i>B</i>	S.E. of <i>B</i>	Wald	<i>df</i>	<i>p</i>	Odds Ratio	95.0% C.I. for Odds Ratio	
							Lower	Upper
Race	-0.267	0.480	0.308	1	0.579	1.766	0.299	1.964
Punitiveness	0.049	0.014	12.858	1	< 0.001	1.050	1.022	1.079
Gender	1.197	0.330	13.159	1	< 0.001	3.310	1.734	6.320
Testimony	0.106	0.335	0.100	1	0.752	1.111	0.577	2.141

Table 18

Exploratory Hierarchical Regression of Expert Testimony for Community Sample
($n = 351$)

Variables	R	ΔR^2	β	p
Step 1				
Gender	0.092		-0.114	0.028
Punitiveness			0.265	< 0.001
Race			0.036	0.478
Step 2				
Gender	0.098	0.007	-0.116	0.025
Punitiveness			0.267	< 0.001
Race			0.037	0.469
Testimony			0.081	0.115

Table 19

Exploratory Logistic Regression of Expert Testimony for Community Sample (n =351)

							95.0% C.I. for Odds Ratio	
	<i>B</i>	S.E. of <i>B</i>	Wald	<i>df</i>	<i>p</i>	Odds Ratio	Lower	Upper
Race	0.180	0.327	0.302	1	0.582	1.197	0.630	2.274
Punitiveness	0.046	0.010	23.123	1	< 0.001	1.047	1.028	1.067
Gender	0.225	0.255	0.784	1	0.376	1.253	0.761	2.064
Testimony	-0.238	0.248	0.922	1	0.337	0.788	0.485	1.281

Figure 1

Hypothesis Two Proposed Mediation Model

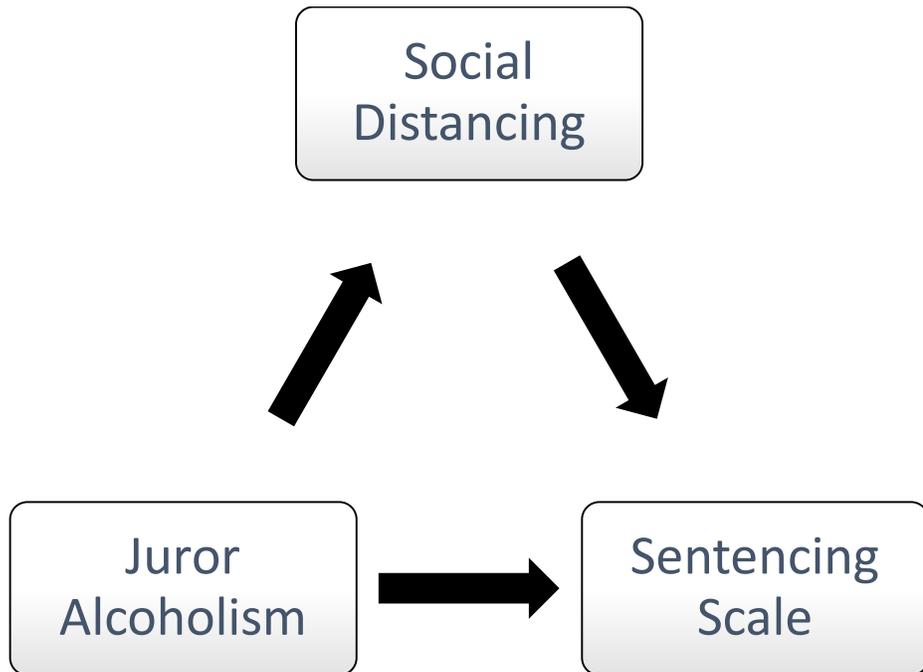


Figure 2

Line Graph of Continuous Sentence Scale Scores for Each Sample

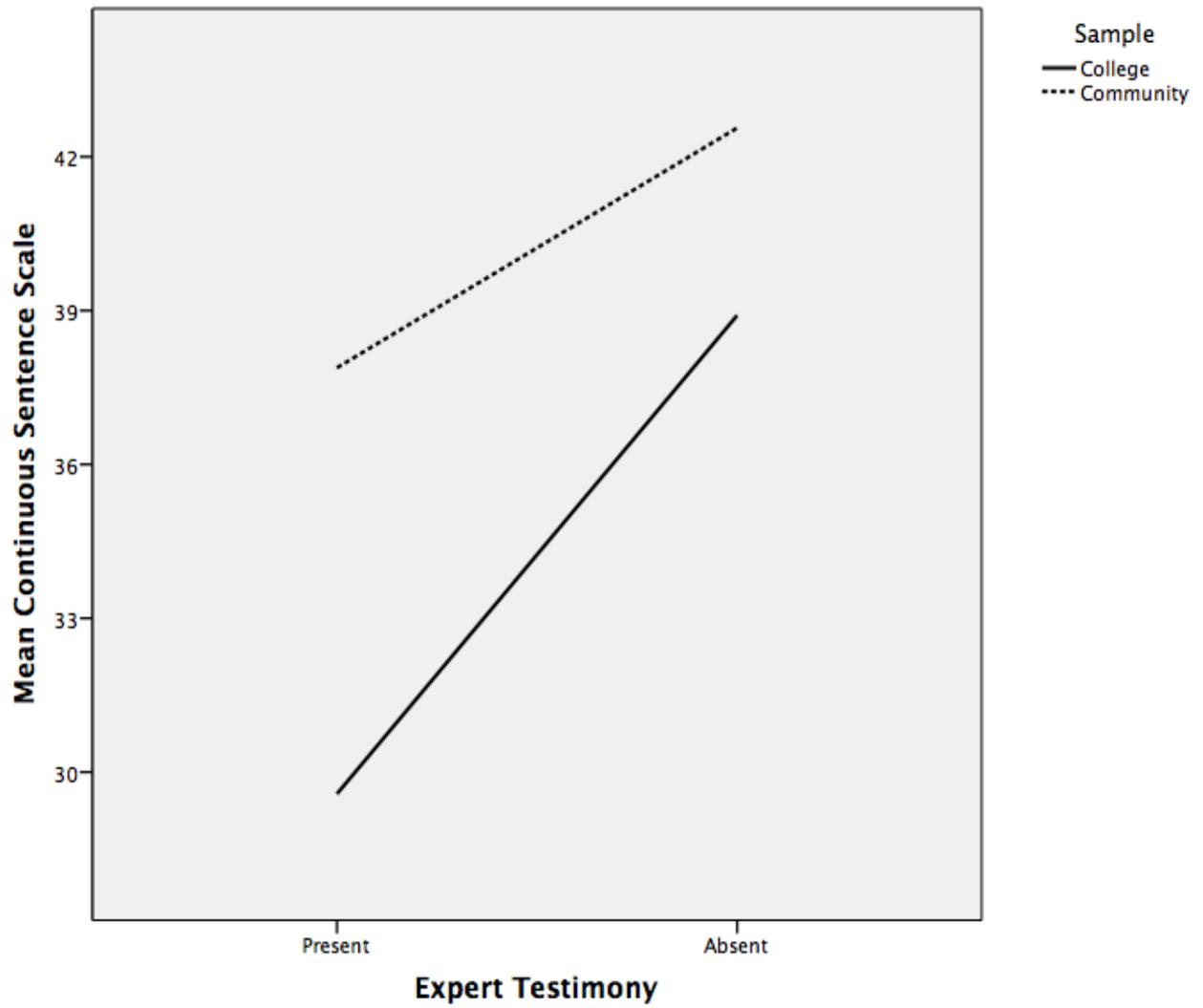


Figure 3

Dichotomous Sentencing Decisions by Sample for Participants Exposed to Testimony (n = 326)

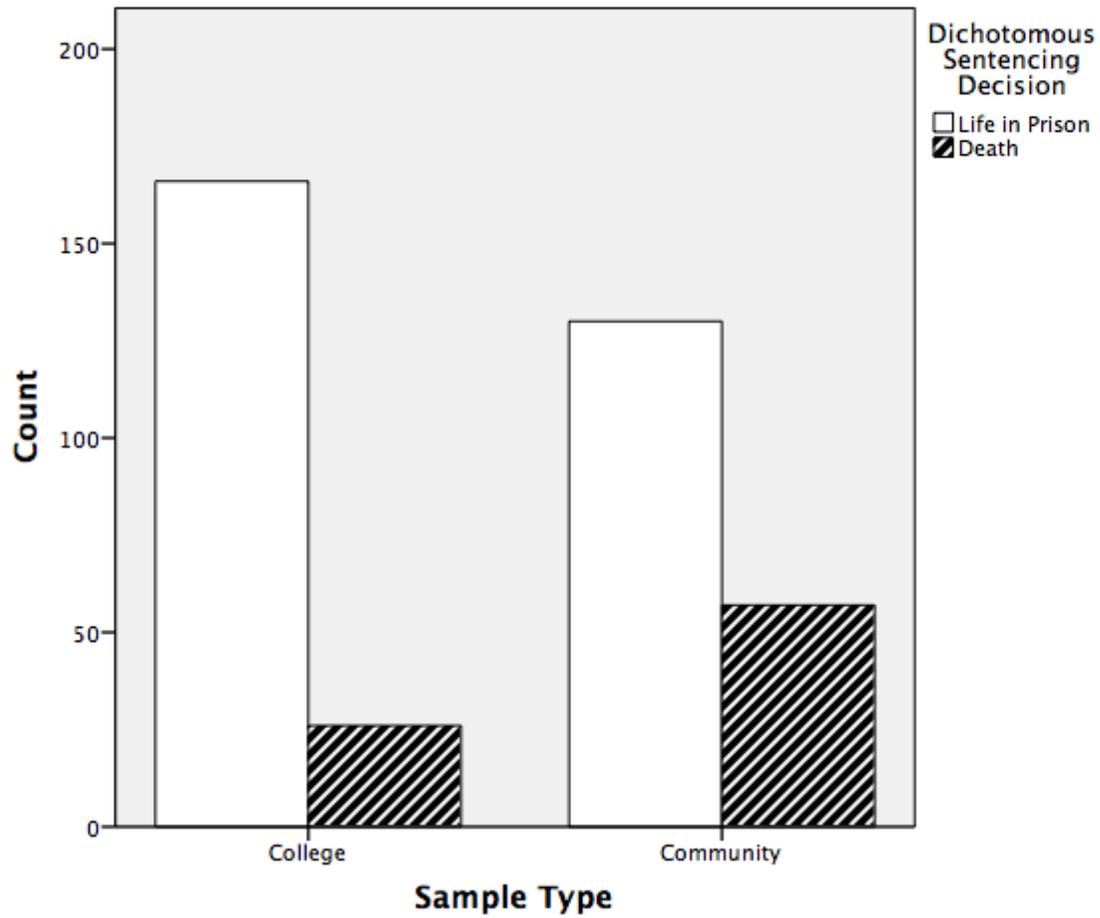
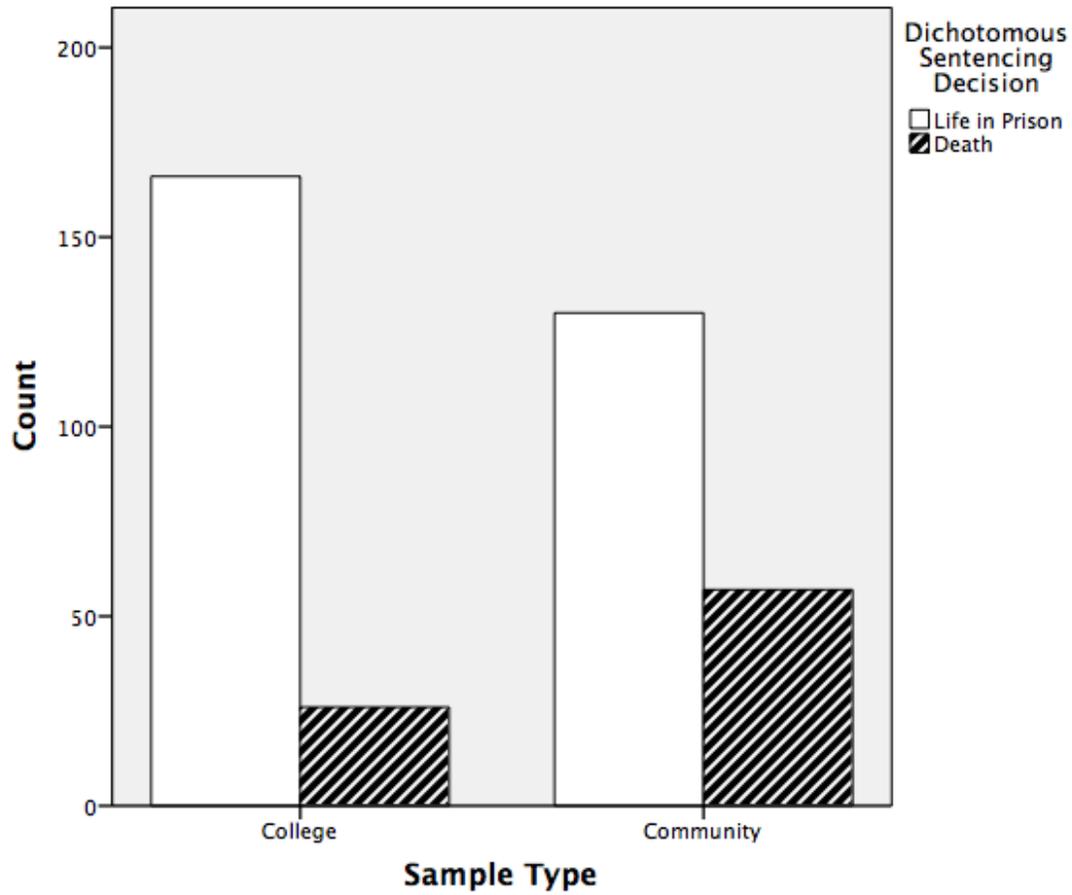


Figure 4

Dichotomous Sentencing Decisions by Sample for Participants Not Exposed to Testimony (n = 379)



4. DISCUSSION

Hypothesis Testing

Hypothesis One predicted the presence of expert mental health testimony regarding a defendant's alcohol use disorder would exacerbate the "backfire effect," leading to harsher sentencing decisions in a hypothetical capital murder trial. It was further predicted that higher inclination toward choosing the death penalty would be associated with higher scores on the MAST. In other words, Hypothesis One predicted a three-way interaction between Defendant Diagnosis, Juror Alcoholism and Expert Testimony in terms of influence on responses to a continuous Sentence Scale. Contrary to the proposed hypothesis, neither the defendant's substance use disorder nor participants' scores on the MAST significantly contributed to scores on the continuous dependent variable.

Testing of Hypothesis One revealed a significant main effect for Expert Testimony on Sentence Scale scores. This main effect occurred regardless of whether the capital defendant was described as someone with a substance abuse disorder. Upon further investigation, the main effect of Expert Testimony occurred only in the subsample comprised of college student participants. For community participants, Expert Testimony did not significantly contribute to a model predicting scores on a continuous sentencing scale.

The mediation model proposed in Hypothesis Two was tested using the sample as a whole, in addition to separate analyses of data collected from both college and community subsamples. For each of the analyses, only mock jurors exposed to the defendant with a

diagnosed alcohol problem (Defendant Diagnosis Present condition) were included. Results did not support the existence of the proposed mediation model (as shown in Figure 1). In fact, no significant direct or indirect relation was uncovered between Juror Alcoholism and Sentence Scale scores.

While Hypothesis Two was not supported by results, preliminary analyses uncovered some noteworthy correlations between Social Distancing, and other variables of interest. Social Distancing was found to have a negative, significant relation with MAST scores for college student and community participants, as well as the total sample. For each sample type, unhealthier participant drinking habits were associated with lower scores on the SDS. This indicated mock jurors with higher alcoholism scores preferred less social distance from an alcoholic. This particular relation contradicts patterns proposed in Hypothesis Two, suggesting those with higher MAST scores would wish to distance themselves significantly more from an alcoholic. Overall, participants who drank more, appeared to desire less social distance from the alcoholic, perhaps due to personal identification with the alcoholic.

Social Distancing displayed a significant, positive correlation with Race for each of the sample types. Results suggested that Non-whites desired more Social Distance from the alcoholic depicted in SDS items than did Whites. Gender, as well as Punitiveness, were both significantly correlated with Social Distancing in the total sample and college student subgroup, and this relation was in the positive direction. This means higher Punitiveness was associated with more Social Distancing. For those comprising the college student sample, females scored significantly higher on the SDS as compared to their male peers.

Exploratory Analyses

Exploratory analyses further examined the influence of Expert Testimony on dependent variables representing juror decision-making in the sentencing phase of a hypothetical capital murder trial. Specific variables (i.e., Gender, Race, Punitiveness) were controlled to see if testimony from a mental health expert would still contribute significantly in explaining variance in sentencing decisions. Each analysis was performed for the total sample, as well as college student and community subsamples separately. Regression models were also tested in terms of their ability to predict continuous and dichotomous sentencing variables.

For the sample as a whole, a regression model including Gender, Race and Punitiveness, as well as Expert Testimony, explained a significant amount of the variance in scores on the continuous Sentence Scale. After controlling for participants' Gender, Race and Punitiveness, Expert Testimony still made a significant contribution to the model on its own. This significant contribution was replicated in another regression analysis inclusive of college student participants only. For the analysis inclusive of community participants only, Expert Testimony was not found to make a significant contribution in predicting Sentence Scale scores. An ANOVA was performed to further explore apparent differences between how college students versus community participants responded to Expert Testimony. While significant main effects were uncovered for Expert Testimony, as well as Sample Type, the interaction between the two predictor variables was not significant. The implications of this finding will be explored more thoroughly below.

A series of logistic regressions explored the ability of Expert Testimony, above and beyond certain juror traits (i.e., Gender, Race, Punitiveness), to predict mock jurors'

dichotomous Sentencing Decisions. For the total sample and college subsample, Gender and Punitiveness made statistically significant contributions to the predictive ability of the regression model. However, neither Race nor Expert Testimony contributed statistically to the model in predicting mock jurors' decisions between Life in Prison and Death in the capital murder case. In looking at community sample results alone, only Punitiveness made a statistically significant contribution to the predictive ability of the logistic regression model, with participants scoring higher on the PUN more likely to choose Death over Life in Prison. No other variables were found to be significantly predictive of Sentencing Decision within the community sample.

A Closer Look at the Influence of Expert Testimony

Proposed hypotheses of the current study with regard to the usefulness of substance-themed mitigation in capital case sentencing were not supported by the data. The finding that the defendant's substance abuse disorder did not exert a significant influence on sentencing decisions is particularly noteworthy, especially considering an abundance of extant data suggesting substance-themed mitigation is harmful for capital murder defendants. Also, expert testimony regarding biopsychosocial mitigation in general, did not contribute to a "backfire effect." Instead, for college student mock jurors, expert testimony about the defendant's background and unique constellation of risk versus protective factors appeared to be associated with more leniency, as measured by the continuous dependent variable, which assessed initial inclination toward sentencing decision (See Figure 2). In looking at the response set for the dichotomous Sentencing Decision, however, data suggested Expert Testimony was not significantly predictive of the ultimate decision of Life in Prison or Death, even for the college student subsample (See Figures 3 and 4).

Of those participants who were exposed to expert testimony, a significant difference in continuous Sentence Scale scores for college students and community participants was uncovered, and the magnitude of this difference was small to moderate. The Sentence Scale mean for college student mock jurors exposed to expert testimony was significantly lower than the mean for community mock jurors exposed to expert testimony. Considering only the mock jurors exposed to expert testimony, college students were significantly more inclined toward a sentence of life imprisonment as compared to community members (see Figure 2).

Previously mentioned analyses suggested the presence or absence of expert testimony did not contribute significantly to predicting responses to dichotomous sentencing choices, and this is demonstrated in Figures 3 and 4. In looking at dichotomous sentencing choices by Sample Type, college students were less likely than community participants to choose Death, and this occurred regardless of whether they viewed expert testimony. A closer look at the influence of Expert Testimony as a predictor variable, suggested that in their initial feelings about sentencing (as measured by a continuous scale), college students were more amenable to the influence of mental health testimony as compared to community participants. However, when it came down to making the ultimate decision of Life in Prison or Death, the average college student was not significantly more or less considerate of testimony than a more venire-representative participant.

The final analyses included an ANOVA to uncover a possible interaction effect between Sample Type and Expert Testimony with regard to influence on the continuous dependent variables. Both Sample Type and Expert Testimony were shown to exert significant main effects; however, no interaction was uncovered. This means the influence of Expert Testimony on the dependent variable was not significantly different between the two subsamples. This finding

implied some other factor or factors besides Sample Type are driving the difference in Sentence Scale scores between the two subsamples. A scan of the correlations matrix for the total sample (see Table 8) shows significant correlations between the continuous dependent variables and several other variables including Punitiveness, Age, and Gender. Education is another possibly variable accounting for significant differences between the two subsamples. Differences between the two subsamples' scores on the dependent variables are more likely a function of one, or a combination of several of these factors, rather than Sample Type alone.

Limitations

Some limitations of this research should be addressed. Based on data collected from the present study, it is reasonable to conclude that the college students responded differently than MTurk participants to experimental manipulations, most notably with respect to initial responses to expert mental health testimony prior to making the ultimate dichotomous sentencing decisions. While MTurk is said to produce more externally valid samples than college student subject pools (Buhrmester et al., 2011), this mode of recruitment is still new. More information is needed before concluding MTurk participants are any more representative of real-life jurors than college students. Sacrificing convenience and assuming reasonable financial cost, a sample of live jurors would have been better for the examination of the variables of interest in the current research. Results could then be compared to data collected from a college student sample, in order to untangle the true differences between the groups with regard to sentencing decisions and consideration of expert testimony. Such a practice would offer more conclusive evidence to support or refute the external validity of extant data utilizing college students in empirical studies of juror decision-making.

As previously stated, expert testimony was presented via written text made to appear similar to a real courtroom transcript. A video of an expert testifying would have replicated a real capital trial more closely. This video would have added significantly to the external validity of stimuli used in this research. This study sacrificed some external validity to attenuate influence of extraneous factors resulting from the use of video testimony (e.g., expert witness eye contact).

During the penalty phase of a capital trial, the defense presents mitigation evidence with several goals in mind, including reducing culpability of the defendant, emphasizing positive aspects of the defendant and lessening concerns about future risk for violence. These objectives are highlighted by Haney (2003):

The presentation of mitigation requires the construction of an empathetic narrative, one that may include the broad sociological forces that constitute the larger context of the crime, the background and developmental history of the defendant and, in some cases, the deeper psychological issues that help to account for why a particular crime was committed by a specific defendant (p. 471).

A noted limitation of past research is the isolated presentation of mitigation stimuli for mock jurors' consideration in sentencing decisions. In order to rectify this, in the present research, mock jurors were afforded a broader "empathetic narrative," in accordance with Haney's (2003) stated goals. Participants were provided several pieces of information regarding the larger context of the defendant's life story, in addition to the mitigating factor of interest, substance abuse. Expert testimony was also provided for some mock jurors in order to explain implications of defendant mental illness and various other risk and protective factors (Cunningham, 2010).

While this approach may provide more realistic courtroom conditions, it is possible the contextual information regarding Timothy Spencer's life and crime drowned out variables of interest including Defendant Diagnosis. Presenting variables of interest in isolation, or at least offering less detail than the current study, may prove more efficacious in accurately identifying the influence of various forms of biopsychosocial mitigation on sentencing decisions.

Practical Implications

The main finding of the present research is that in general, college students may be more susceptible to the influence of expert testimony in their initial feelings about sentencing decisions. It is important to note this pattern did not hold true when college students made the unequivocal choice of life imprisonment or death for the defendant. Considering this new data and other findings from the current research, here are some practical suggestions offered to attorneys, trial consultants and other advocates for the defendant in capital murder cases.

This analysis provided additional support for the predictive ability of specific juror traits on capital case sentencing outcomes. In particular, mock jurors' levels of punitiveness, as measured by the PUN, significantly contributed to models predicting sentencing decisions in both college and community samples. Furthermore, scores on the PUN added significantly to predictability on both continuous and dichotomous measures of sentencing decisions. Results from this study reaffirm the utility of this measure in the practice of jury selection in capital murder cases. Advocates for the defense would be wise to measure jury pool members' scores on some kind of empirically-validated measure of punitiveness, then striking individuals scoring exceptionally high on this trait. Other important juror traits (e.g., gender) are implicated in the existing literature on attitudes toward the death penalty and capital case decision-making. Data

uncovered in the current study support the importance of certain demographic factors in capital cases wherein defendant biopsychosocial variables are involved. Overall, gender appeared to make a significant difference in continuous sentencing decisions, with females displaying more leniency than males. Accordingly, female jurors may potentially be more considerate of biopsychosocial mitigation during the penalty phase of a capital murder trial.

Substance abuse is arguably, one of the most pervasive mental health problems afflicting forensic and correctional populations. However, this is just one of many biopsychosocial variables that may be introduced by the defense in an attempt to secure a life imprisonment decision over the death penalty during a capital trial. The data from the current investigation suggested credible testimony from a mental health expert can potentially attenuate risk of the “backfire effect.” This assertion held especially true for college students in the present study who were not only less likely to choose the death penalty overall, but also significantly more considerate of mental health testimony, as measured by a continuous scale of sentence decision-making. Practically speaking, during capital cases complicated by defendant mental illness or other factors especially susceptible to the “backfire effect,” the education level of jury members may be pivotal in securing a life imprisonment verdict. The educational makeup of the jury could help determine the appropriate allocation of time and financial resources spent on retaining mental health experts and preparing them for the witness stand. Credible and convincing mental health testimony may hold more weight for jurors with higher levels of educational achievement.

In light of results showing expert testimony regarding biopsychosocial mitigation was less impactful for community members versus students, defense attorneys and other strategists should carefully consider how such testimony can make a stronger impression on less educated

jurors or jurors who are further removed from the role of student. For testifying experts, this may take the form of avoiding clinical jargon in explanations of biopsychosocial mitigation evidence. As always, a testifying expert should strive to be as clear and factual as possible, while at the same time dispelling premature judgments, stigma and inaccurate information laypersons may hold against a capital murder defendant.

Future Directions and Final Remarks

This study looked at how jurors handle certain biopsychosocial variables that affect the defendant's life development and the circumstances leading up to a capital murder. In accordance with more realistic courtroom conditions, the influence of expert testimony was isolated in order to understand whether more information related to certain biopsychosocial mitigating factors helps or hurts the defense. Individual differences among jurors were explored to gain a more thorough understanding of the variables that predict sentencing decisions for capital cases complicated by defendant mental illness and substance abuse in particular. Overall, the defendant's substance abuse was not significantly predictive of sentencing decisions, and this was observed in both college and community subsamples. Contrary to predicted results, participants' scores on a measure of alcoholism were also not significantly associated with outcomes on dependent variables.

Regardless of whether expert testimony was included or not, college students were less likely to choose the death penalty than community participants. Data suggested college students were more impacted by expert testimony, but only on a continuous scale measure, intended to assess the degree and direction of mock jurors' initial feelings about sentencing prior to making a dichotomous sentencing choice. If the continuous and dichotomous dependent variables are

somewhat representative of jurors' feelings pre- and post-deliberation, there may be a "sweet spot" when expert testimony is most influential.

The notion of a "sweet spot" has been identified in several contexts completely unrelated to juror decision-making. For example, "the term sweet spot is used for a tennis racket in describing that point or region where the ball should be hit for optimal results" (Mucchi, 2013). Sarkar, James, Busch and Thiel (2012) discuss it as the area of a cricket bat "where the ball receives maximum acceleration...accompanied by minimal jarring of the hands and forearms" (p. 467). In music, recording engineers describe the "sweet spot" as "the focal point between two speakers, where an individual is fully capable of hearing the stereo audio mix the way it was intended to be heard by the mixer" (Merchel & Groth, 2009). Results from the current research suggest expert testimony is most powerful for some jurors during the initial stages of decision-making, perhaps just prior to deliberation. Similar to the "sweet spot" recording engineers speak of, the "sweet spot" in capital case sentencing may be the point at which content of expert testimony is processed by the decision-maker "the way it was intended to be heard" by the expert (Merchel & Groth, 2009). This may be the time when, for the juror, the message of the testimony is freest of confounding noise (e.g., other jurors' opinions). Future research on expert mental health testimony and capital case sentencing might include mock deliberation, to help elucidate when testimony is most impactful on jurors (i.e., when the "sweet spot" occurs), and what factors cause a juror to be more or less considerate of such information.

According to Maggard et al. (2012), "Whether students' attitudes about the death penalty are similar to those of the general public remains to be seen" (p. 156). The current study yielded new information regarding differences between college student samples and more representative

community samples in mock jury research. While previous research has shown college students are affected differently by expert testimony, this study is the first of its kind to uncover this pattern in the context of the punishment phase of a capital murder trial complicated by biopsychosocial mitigation. This noted, the current research highlights the utility of Diamond's (1997) two-step model for mock jury research, which includes confirming any significant findings from college student samples with more venire-representative samples in order to increase generalizability.

Existing empirical literature emphasizes that jurors often make capital sentencing decisions prematurely and without enough consideration of case-relevant information (Trahan, 2011). Data gleaned from the present study benefits the psychological and legal communities; it adds to a growing body of literature uncovering how expert testimony, along with specific juror characteristics complicate sentencing decisions in capital murder cases. This study also provided more information about how experts should handle themes of biopsychosocial mitigation, particularly with jurors of varying education levels. Results help facilitate the implementation of what Schroeder, Guin, Pogue and Bordelon (2006) call the "gold standard for mitigation practice" (p. 355). This involves a "focused investigation and presentation of evidence about a defendant's life and character that is sufficient to compel jurors to consider a complexity of personal, social and ecological issues in deciding attribution of responsibility...in capital cases" (p. 355). The current research aids testifying experts in providing impactful information, in context, so triers-of-fact can best do their job.

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APPENDIX A

Research Announcement Recruiting Participants from The University of Alabama Psychology 101 Subject Pool

This study seeks to investigate mock jurors' decisions during a criminal trial. This study takes approximately 30 minutes. You will be rewarded one research credit for completion.

APPENDIX B

Research Announcement Recruiting Participants from MTurk

This study seeks to investigate mock jurors' decisions during a criminal trial. This study takes approximately 30 minutes. You will be rewarded \$0.25 for study completion. You must be 18 years old to participate. You must be a citizen of the United States to participate. At the study's completion, you will be provided a unique four-digit code. Please keep this window open, and enter the code here to receive your payment once you have completed the study. Thank you for your participation.

ENTER CODE: _____

APPENDIX C

Information Screen for College Student Sample

IMPORTANT INFORMATION FOR COLLEGE STUDENT RESEARCH PARTICIPANTS

Title of Project: Capital Case Sentencing: You be the juror!

Researchers: Jessica A. Boyle, M.A. and Stanley L. Brodsky, Ph.D., The University of Alabama

You are being asked to take part in a research study by Ms. Jessica Boyle. Ms. Boyle is a doctoral candidate at The University of Alabama. Ms. Boyle is being supervised by Dr. Stanley Brodsky. Dr. Brodsky is a licensed clinical psychologist and professor at The University of Alabama.

What is this study about?

This study seeks to investigate mock jurors' decisions during a criminal trial.

Why is this study important, and what good will the results do?

The knowledge from this study will help researchers understand how jurors make decisions in criminal trials.

Why have I been asked to take part in this study?

As a college student in an introductory psychology course, you are part of the research pool at The University of Alabama.

What requirements must I meet in order to participate?

Participants must be at least 18 years old to participate.

How many people besides me will be in this study?

Approximately 700 people will be in this study.

What will I be asked to do in this study?

If you decide to be in this study, you will be asked to do these things:

1. Provide basic demographic information and answer a three-question screener, indicating your eligibility to participate in this research
2. Respond to three brief surveys about aspects of your personality and behavior
3. Read a fictitious criminal case description
4. Consider information regarding the defendant's background. Information presented via expert witness testimony script may or may not be provided to supplement this material.

5. Make a sentencing decision in the fictitious criminal case

How much time will I spend being in this study?

This study will take up to, but likely less than, 30 minutes to complete

Will I be compensated for being in this study?

As compensation for being in the study, you will receive one (1) credit toward your research participation requirements

Will being in this study cost me anything?

There will be no cost to you except for your time

What are the benefits (good things) that may happen to me if I am in this study?

You may learn more about what types of questions researchers use to understand problems in capital sentencing

What are the benefits to scientists or society?

This study will help researchers learn more about how people on juries make decisions about blame and appropriate sentence in capital murder trials. This information can help make sure individuals on trial are judged fairly.

What are the risks (harm or dangers) to me if I am in this study?

You may feel some discomfort when answering questions in the questionnaires. You can stop being in the study at any time if you feel uncomfortable.

How will you protect my privacy?

As a participant in this study, you exercise full autonomy in the decision to participate by voluntarily accessing the link to the study. Investigators will have no direct access to prospective participants and there will be no recruitment reminders or follow-ups. In addition, all participants will complete the online study at a location and time of their choice. Furthermore, participants may discontinue participation at any time without penalty.

What will happen to the information I give you? How will you keep it confidential?

You will not be asked to provide any individually identifying information. You can also stop being in the study at any time. Your name is recorded only by the researcher pool administrator in order to record your research credits. Data from questionnaires will not include any names or other identifying information.

What are my rights as I take part in this study?

Taking part in this study is voluntary. It is your free choice. You may choose not to take part at all. If you start the study, you can stop at any time. Quitting the study will not result in any penalty.

What is the alternative to being in this study? Do I have other choices?

The alternative is to not take part in the study.

Who do I talk to if I have questions or problems?

If you have questions about the study, please call or email Jessica Boyle, at 205-348-5083 or ethanolmitigation@gmail.com. You can also call or email her supervisor, Dr. Stanley L. Brodsky, Ph.D., at 205-348-5083 or stanley.brodsky@ua.edu. If you have questions, concerns or complaints about your rights as a participant in this research study, you may contact Ms. Tanta Myles, the Research Compliance Officer at UA, at 205-348-8431 or toll-free at 1-877-820-3066. You may also ask questions, make suggestions, or file complaints and concerns through the IRB Outreach website at http://osp.ua.edu/site/PRCO_Welcome.html or via email at participantoutreach@bama.ua.edu. After you participate, you are encouraged to complete the survey for research participants online at the outreach website or you may ask the investigator for a copy of it and mail it to the University Office for Research Compliance, Box 870127, 358 Rose Administration Building, Tuscaloosa, AL 35487-0127.

Clicking the button below confirms I have read this consent form. I understand the nature of this study and I understand what I will be asked to do. I freely agree to take part in this study.

APPENDIX D

Information Screen for Community (MTurk) Sample

IMPORTANT INFORMATION FOR MTURK RESEARCH PARTICIPANTS

Title of Project: Capital Case Sentencing: You be the juror!

Researchers: Jessica A. Boyle, M.A. and Stanley L. Brodsky, Ph.D., The University of Alabama

You are being asked to take part in a research study by Ms. Jessica Boyle. Ms. Boyle is a doctoral candidate at The University of Alabama. Ms. Boyle is being supervised by Dr. Stanley Brodsky. Dr. Brodsky is a licensed clinical psychologist and professor at The University of Alabama.

What is this study about?

This study seeks to investigate mock jurors' decisions during a criminal trial.

Why is this study important, and what good will the results do?

The knowledge from this study will help researchers understand how jurors make decisions in criminal trials.

Why have I been asked to take part in this study?

As a community member, your participation provides valuable information regarding juror decision-making in criminal trials.

What requirements must I meet in order to participate?

Participants must be at least 19 years old to participate. You must also be a citizen of the United States of America. Your IP address will be checked to ensure you are located in the United States. Participants completing this study outside of the United States will NOT be awarded compensation. You must also pass a three-question screener determining your eligibility.

How many people besides me will be in this study?

Approximately 700 people will be in this study.

What will I be asked to do in this study?

If you decide to be in this study, you will be asked to do these things:

1. Provide basic demographic information and answer a three-question screener, indicating your eligibility to participate in this research
2. Respond to three brief surveys about aspects of your personality and behavior
3. Read a fictitious criminal case description
4. Consider information regarding the defendant's background. Information presented

through an expert witness testimony script may or may not be provided to supplement this material.

5. Make a sentencing decision in the fictitious criminal case

How much time will I spend being in this study?

This study will take up to, but likely less than, 20 minutes to complete

Will I be compensated for being in this study?

As compensation for being in the study, you will receive \$0.25

Will being in this study cost me anything?

There will be no cost to you except for your time

What are the benefits (good things) that may happen to me if I am in this study?

You may learn more about what types of questions researchers use to understand problems in capital sentencing.

What are the benefits to scientists or society?

This study will help researchers learn more about how people on juries make decisions about blame and appropriate sentence in capital murder trials. This information can help make sure individuals on trial are judged fairly.

What are the risks (harm or dangers) to me if I am in this study?

You may feel some discomfort when answering questions in the questionnaires. You can stop being in the study at any time if you feel uncomfortable.

How will you protect my privacy?

As a participant in this study, you exercise full autonomy in the decision to participate by voluntarily accessing the link to the study. Investigators will have no direct access to prospective participants and there will be no recruitment reminders or follow-ups. In addition, all participants will complete the online study at a location and time of their choice. Furthermore, participants may discontinue participation at any time without penalty.

What will happen to the information I give you? How will you keep it confidential?

You will not be asked to provide any individually identifying information. You can also stop being in the study at any time. Data from questionnaires will not include any names or other identifying information. IP addresses will be checked in order to confirm your eligibility to participate; however, this information will not be recorded.

What are my rights as I take part in this study?

Taking part in this study is voluntary. It is your free choice. You may choose not to take part at all. If you start the study, you can stop at any time. Quitting the study will not

result in any penalty.

What is the alternative to being in this study? Do I have other choices?

The alternative to being in this study is not to take part in it.

Who do I call if I have questions or problems?

If you have questions about the study, please call or email Jessica Boyle, at 205-348-5083 or ethanolmitigation@gmail.com. You can also call or email her supervisor, Dr. Stanley L. Brodsky, Ph.D., at 205-348-5083 or stanley.brodsky@ua.edu. If you have questions, concerns or complaints about your rights as a participant in this research study, you may contact Ms. Tanta Myles, the Research Compliance Officer at UA, at 205-348-8431 or toll-free at 1-877-820-3066. You may also ask questions, make suggestions, or file complaints and concerns through the IRB Outreach website at http://osp.ua.edu/site/PRCO_Welcome.html or via email at participantoutreach@bama.ua.edu. After you participate, you are encouraged to complete the survey for research participants online at the outreach website or you may ask the investigator for a copy of it and mail it to the University Office for Research Compliance, Box 870127, 358 Rose Administration Building, Tuscaloosa, AL 35487-0127.

Clicking the button below confirms I have read this consent form. I understand the nature of this study and I understand what I will be asked to do. I freely agree to take part in this study.

APPENDIX E

Second Consent/Purpose of the Study for College Student Sample

IMPORTANT INFORMATION FOR COLLEGE STUDENT RESEARCH PARTICIPANTS

The goals of the current study are listed below:

1. To find out how expert witness testimony, certain defendant characteristics, and certain juror characteristics affect sentencing decisions during a capital murder case.
2. To collect data on alcohol-themed mitigation. Other studies have shown a defendant's alcohol use makes a difference in sentencing decisions and assignment of blame.
3. To provide a foundation for future research on alcohol-themed mitigation.

The full purpose of this study was not given in the first consent form to make sure that what you were told about the study did not affect how you responded.

As such, please do not share the full purpose of this study with your peers.

Please let the researcher know as soon as possible if you have any questions or concerns about this.

You may call the researcher, Jessica A. Boyle, at ethanolmitigation@gmail.com or 205-348-5083 if you have any questions after this.

You can also call or email her supervisor, Dr. Stanley Brodsky, Ph.D., at stanley.brodsky@ua.edu or 205-348-5083. He is a licensed clinical psychologist and professor. He is available if you have any questions about this part of the study.

Finally, you can also choose to call Ms. Tanta Myles, Research Compliance Officer at 205-348-8461 or toll-free at 1-877-820-3066. She can answer any questions or concerns you have about your rights as you take part in this study. You may also ask questions, make suggestions, or file complaints and concerns through the IRB Outreach website at http://osp.ua.edu/site/PRCO_Welcome.html or email participantoutreach@bama.ua.edu. After you participate, you are encouraged to complete the survey for research participants online at the outreach website or you may ask the investigator for a copy of it and mail it to the University Office for Research Compliance, Box 870127, 358 Rose Administration Building, Tuscaloosa, AL 35487-0127.

APPENDIX F

Second Consent/Purpose of the Study for Community (MTurk) Sample

IMPORTANT INFORMATION FOR MTURK PARTICIPANTS

The goals of the current study are listed below:

1. To find out how expert witness testimony, certain defendant characteristics, and certain juror characteristics affect sentencing decisions during a capital murder case.
2. To collect data on alcohol-themed mitigation. Other studies have shown a defendant's alcohol use makes a difference in sentencing decisions and assignment of blame.
3. To provide a foundation for future research on alcohol (or other drug) themed mitigation.

The full purpose of this study was not given in the first consent form to make sure that what you were told about the study did not affect how you responded. As such, please do not share the full purpose of this study with your peers. Please let the researcher know as soon as possible if you have any questions or concerns about this.

You may call the researcher, Jessica A. Boyle, at 205-348-5083, if you have any questions after this. Alternatively, you can email any questions to ethanolmitigation@gmail.com.

You can also email or call her supervisor, Dr. Stanley Brodsky, Ph.D., at stanley.brodsky@ua.edu or 205-348-5083. He is a licensed clinical psychologist and professor. He is available if you have any questions about this part of the study.

Finally, you can also choose to call Ms. Tanta Myles, Research Compliance Officer at 205-348-8461 or toll-free at 1-877-820-3066. She can answer any questions or concerns you have about your rights as you take part in this study. You may also ask questions, make suggestions, or file complaints and concerns through the IRB Outreach website at http://osp.ua.edu/site/PRCO_Welcome.html or email participantoutreach@bama.ua.edu. After you participate, you are encouraged to complete the survey for research participants online at the outreach website or you may ask the investigator for a copy of it and mail it to the University Office for Research Compliance, Box 870127, 358 Rose Administration Building, Tuscaloosa, AL 35487-0127.

**Your survey code is:
4951**

APPENDIX G

Alternative Debriefing Screen for College Student Sample

IMPORTANT INFORMATION

Thank you for your willingness to participate in this research. We are sorry, but one or more of your responses indicate you are ineligible to participate in this experiment. You will still receive on research credit for your willingness to participate in this research.

You may call the researcher, Jessica A. Boyle, at ethanolmitigation@gmail.com or 205-348-5083 if you have any questions after this.

You can also call or email her supervisor, Dr. Stanley Brodsky, Ph.D., at stanley.brodsky@ua.edu or 205-348-5083. He is a licensed clinical psychologist and professor. He is available if you have any questions about this part of the study.

Finally, you can also choose to call Ms. Tanta Myles, Research Compliance Officer at 205-348-8461 or toll-free at 1-877-820-3066. She can answer any questions or concerns you have about your rights as you take part in this study. You may also ask questions, make suggestions, or file complaints and concerns through the IRB Outreach website at http://osp.ua.edu/site/PRCO_Welcome.html or email participantoutreach@bama.ua.edu. After you participate, you are encouraged to complete the survey for research participants online at the outreach website or you may ask the investigator for a copy of it and mail it to the University Office for Research Compliance, Box 870127, 358 Rose Administration Building, Tuscaloosa, AL 35487-0127.

Again, thank you for your willingness to help.

APPENDIX H

Alternative Debriefing Screen for Community Sample

IMPORTANT INFORMATION

Thank you for your willingness to participate in this research. We are sorry, but one or more of your responses indicate you are ineligible to participate in this experiment.

You may call the researcher, Jessica A. Boyle, at ethanolmitigation@gmail.com or 205-348-5083 if you have any questions after this.

You can also call or email her supervisor, Dr. Stanley Brodsky, Ph.D., at stanley.brodsky@ua.edu or 205-348-5083. He is a licensed clinical psychologist and professor. He is available if you have any questions about this part of the study.

Finally, you can also choose to call Ms. Tanta Myles, Research Compliance Officer at 205-348-8461 or toll-free at 1-877-820-3066. She can answer any questions or concerns you have about your rights as you take part in this study. You may also ask questions, make suggestions, or file complaints and concerns through the IRB Outreach website at http://osp.ua.edu/site/PRCO_Welcome.html or email participantoutreach@bama.ua.edu. After you participate, you are encouraged to complete the survey for research participants online at the outreach website or you may ask the investigator for a copy of it and mail it to the University Office for Research Compliance, Box 870127, 358 Rose Administration Building, Tuscaloosa, AL 35487-0127.

Again, thank you for your willingness to help.

APPENDIX I

Demographics Questionnaire and Death Qualification Screener

You are? _____ Male _____ Female

You are ___ years old:

Do you consider yourself:

- | | |
|-------------------------------------------------|------------------------------------------|
| <input type="checkbox"/> White/Caucasian | <input type="checkbox"/> Hispanic/Latino |
| <input type="checkbox"/> Black/African-American | <input type="checkbox"/> Native American |
| <input type="checkbox"/> Asian-American | <input type="checkbox"/> Biracial |
| <input type="checkbox"/> Other (Specify _____) | |

Your highest level of education is:

- No high school
- Some high school
- High school diploma/GED
- Some college
- Bachelor's degree
- Master's or Doctoral degree
- Other (Specify _____)

Have you ever been called for jury duty before? Yes _____ No _____

Have you ever served on a jury? Yes _____ No _____

If yes, what was the verdict? _____

As a juror, would you be unwilling to impose the death penalty in *any* case?

Yes _____ No _____

As a juror, are you of the belief that the death penalty *should* be imposed in all instances of capital murder? Yes _____ No _____

As a juror, would you consider life in prison as a potential sentence in a capital murder case?

Yes _____ No _____

APPENDIX J

Punitive Orientation Scale (PUN)

Likert scale rating from -4 (strongly disagree) to +4 (strongly agree).

1. It's unreasonable to give people stiff prison sentences simply for possessing small quantities of drugs for personal use.

-4 -3 -2 -1 0 1 2 3 +4

2. In most cases probation is simply an unjustified way of putting criminals back on the street.

-4 -3 -2 -1 0 1 2 3 +4

3. The death penalty is never an appropriate punishment even for murder.

-4 -3 -2 -1 0 1 2 3 +4

4. Three-time losers deserve to be sentenced to life without the possibility of parole.

-4 -3 -2 -1 0 1 2 3 +4

5. Spanking is often the most effective way to teach children not to hit others.

-4 -3 -2 -1 0 1 2 3 +4

6. Punishment simply for the purpose of getting revenge is unacceptable.

-4 -3 -2 -1 0 1 2 3 +4

7. The courts should do everything they can to prevent law enforcement officers from physically harming or intimidating crime suspects.

-4 -3 -2 -1 0 1 2 3 +4

8. Physically punishing misbehaving children may hurt them in the short run, but it will help them in the long run.

-4 -3 -2 -1 0 1 2 3 +4

9. Teachers should be forbidden to physically punish children who misbehave.

-4 -3 -2 -1 0 1 2 3 +4

10. I would never personally throw the switch to execute a condemned prisoner, no matter what his crime might have been.

-4 -3 -2 -1 0 1 2 3 +4

11. I think private citizens should take matters into their own hands if the courts are unwilling to punish criminals properly.

-4 -3 -2 -1 0 1 2 3 +4

12. People should never kick or hit their pets.

-4 -3 -2 -1 0 1 2 3 +4

13. If children refuse to eat what their parents serve them, they should be required to stay at the table until they change their minds.

-4 -3 -2 -1 0 1 2 3 +4

14. If your teenagers use drugs, you should turn them in to the police.

-4 -3 -2 -1 0 1 2 3 +4

15. If I were a juror, I wouldn't hesitate to cast the decisive vote to send a murderer to death row.

-4 -3 -2 -1 0 1 2 3 +4

APPENDIX K

Social Distance Scale (SDS)

Likert scale rating from 0 (definitely willing to) to 3 (definitely unwilling to).

1. How would you feel about renting a room to a person addicted to alcohol?

0 1 2 3

2. How would you feel working on the same class project as a person addicted to alcohol?

0 1 2 3

3. How would you feel having a person addicted to alcohol as your neighbor?

0 1 2 3

4. How would you feel having a person addicted to alcohol care for your children for a couple of hours?

0 1 2 3

5. How would you feel if a family member married a person addicted to alcohol?

0 1 2 3

6. How would you feel introducing a person addicted to alcohol to a friend of yours?

0 1 2 3

7. How would you feel recommending a person addicted to alcohol for a job working for a friend?

0 1 2 3

APPENDIX L

Michigan Alcoholism Screening Test (MAST)

1. Do you feel you are a normal drinker? (“normal” – drink as much or less than most other people)

CHOOSE ONE: YES NO

2. Have you ever awakened the morning after some drinking the night before and found that you could not remember a part of the evening?

CHOOSE ONE: YES NO

3. Does any near relative or close friend ever worry or complain about your drinking?

CHOOSE ONE: YES NO

4. Can you stop drinking without difficulty after one or two drinks?

CHOOSE ONE: YES NO

5. Do you ever feel guilty about your drinking?

CHOOSE ONE: YES NO

6. Have you ever attended a meeting of Alcoholics Anonymous (AA)?

CHOOSE ONE: YES NO

7. Have you ever gotten into physical fights when drinking?

CHOOSE ONE: YES NO

8. Has drinking ever created problems between you and a near relative or close friend?

CHOOSE ONE: YES NO

9. Has any family member or close friend gone to anyone for help about your drinking?

CHOOSE ONE: YES NO

10. Have you ever lost friends because of your drinking?

CHOOSE ONE: YES NO

11. Have you ever gotten into trouble at work because of drinking?

CHOOSE ONE: YES NO

12. Have you ever lost a job because of drinking?

CHOOSE ONE: YES NO

13. Have you ever neglected your obligations, your family, or your work for two or more days in a row because you were drinking?

CHOOSE ONE: YES NO

14. Do you drink before noon fairly often?

CHOOSE ONE: YES NO

15. Have you ever been told you have liver trouble such as cirrhosis?

CHOOSE ONE: YES NO

16. After heavy drinking have you ever had delirium tremens (D.T.'s), severe shaking, visual or auditory (hearing) hallucinations?

CHOOSE ONE: YES NO

17. Have you ever gone to anyone for help about your drinking?

CHOOSE ONE: YES NO

18. Have you ever been hospitalized because of drinking?

CHOOSE ONE: YES NO

19. Has your drinking ever resulted in your being hospitalized in a psychiatric ward?

CHOOSE ONE: YES NO

20. Have you ever gone to any doctor, social worker, clergyman or mental health clinic for help with any emotional problem in which drinking was part of the problem?

CHOOSE ONE: YES NO

21. Have you been arrested more than once for driving under the influence of alcohol?

CHOOSE ONE: YES NO

22. Have you ever been arrested, even for a few hours because of other behavior while drinking?

CHOOSE ONE: YES NO

APPENDIX M

Case Information I (Expert Testimony Absent Version)

Please read this information carefully, as it will be integral to your ability to perform your duties as a juror on this case:

CASE INFORMATION

On April 15, 2013, Mr. Timothy Spencer robs a convenience store. He ties up the two female cashiers and rummages through the store for additional cash, alcohol and other valuables. Both cashiers loosen their bonds and run from the store, screaming hysterically. Spencer yells for them to stop but, when they continue to run, he chases after them and shoots one cashier, Ann Wilson, in the head, killing her instantly. The second cashier, Melissa Martinez, is shot in the lower torso, but survives the attack. Mr. Spencer is apprehended by the police on a tip by someone who was driving past the store at the time of the incident.

You have found the defendant in this case, Timothy James Spencer, **guilty** of the capital offense charged in the indictment, and the guilt phase of this trial is over. Now, at this time, a sentencing hearing will be conducted before you. During this hearing, you will be presented with evidence concerning a proper punishment to be fixed in this case. After you have heard this evidence, and after you have received further instructions from the court, it will then be your duty, as a juror in this case, to make a decision regarding punishment. Punishment in this case is either death or life imprisonment without eligibility for parole. It now becomes your duty to determine, within the limits described by law, which of these two punishments should be imposed for this crime.

The law of this state provides that when a person is found guilty of a capital case, a hearing is to be held before a jury so that you can determine whether the punishment in the case should be death or life imprisonment without eligibility for parole. The law also provides that the jury's determination as to the proper punishment in this case should be based upon a consideration of circumstances of aggravation and mitigation. These should be considered and weighed against each other by the jury for the purpose of determining the proper punishment in the case. When the judge talks about weighing aggravating and mitigating circumstances against one another, he's not talking about saying well, one side has got four or five, so the side with five wins. That's not the way it works. You weigh it by what's more important. You must determine if the mitigating circumstances presented by the defense are of such nature and weight to override the aggravating circumstances.

The state has already presented certain statutory aggravating circumstances. And by statutory, this means that this is specified as aggravating by the written law of this state. The two aggravating circumstances that the state is going to depend upon are:

1. The capital offense was committed during the course of a robbery.
2. The capital offense created a grave risk of danger and death to another person in addition to the person murdered during the time of the offense.

The defense presents the following mitigating circumstances for you to consider:

1. The defendant had a fatherless upbringing.
2. When the defendant was about two years old, his mother abandoned him and moved to New Jersey with her boyfriend. Timothy was left with his grandmother.
3. At the age of 14, the defendant's mother returned to his life. At that point, the defendant was basically shuttled back and forth from his grandmother's house to his mother's house, and lived on the streets, homeless, at points in between.

APPENDIX N

Case Information II (Expert Testimony Present Version)

Please read this information carefully, as it will be integral to your ability to perform your duties as a juror on this case:

CASE INFORMATION

On April 15, 2013, Mr. Timothy Spencer, a heavy drinker since the age of 16, robs a convenience store. He ties up the two female cashiers and rummages through the store for additional cash, alcohol and other valuables. Both cashiers loosen their bonds and run from the store, screaming hysterically. Spencer yells for them to stop but, when they continue to run, he chases after them and shoots one cashier, Ann Wilson, in the head, killing her instantly. The second cashier, Melissa Martinez, is shot in the lower torso, but survives the attack. Mr. Spencer is apprehended by the police on a tip by someone who was driving past the store at the time of the incident.

You have found the defendant in this case, Timothy James Spencer, **guilty** of the capital offense charged in the indictment, and the guilt phase of this trial is over. Now, at this time, a sentencing hearing will be conducted before you. During this hearing, you will be presented with evidence concerning a proper punishment to be fixed in this case. After you have heard this evidence, and after you have received further instructions from the court, it will then be your duty, as a juror in this case, to make a decision regarding punishment. Punishment in this case is either death or life imprisonment without eligibility for parole. It now becomes your duty to determine, within the limits described by law, which of these two punishments should be imposed for this crime.

The law of this state provides that when a person is found guilty of a capital case, a hearing is to be held before a jury so that you can determine whether the punishment in the case should be death or life imprisonment without eligibility for parole. The law also provides that the jury's determination as to the proper punishment in this case should be based upon a consideration of circumstances of aggravation and mitigation. These should be considered and weighed against each other by the jury for the purpose of determining the proper punishment in the case. When the judge talks about weighing aggravating and mitigating circumstances against one another, he's not talking about saying well, one side has got four or five, so the side with five wins. That's not the way it works. You weigh it by what's more important. You must determine if the mitigating circumstances presented by the defense are of such nature and weight to override the aggravating circumstances.

The state has already presented certain statutory aggravating circumstances. And by statutory, this means that this is specified as aggravating by the written law of this state. The two aggravating circumstances that the state is going to depend upon are:

1. The capital offense was committed during the course of a robbery.
2. The capital offense created a grave risk of danger and death to another person in addition to the person murdered during the time of the offense.

The defense presents the following mitigating circumstances for you to consider:

1. The defendant, Mr. Timothy Spencer, had a fatherless upbringing.
2. When the defendant was about two years old, his mother abandoned him and moved to New Jersey with her boyfriend. Timothy was left with his grandmother.
3. At the age of 14, the defendant's mother returned to his life. At that point, the defendant was basically shuttled back and forth from his grandmother's house to his mother's house, and lived on the streets, homeless, at points in between.
4. After his arrest, the defendant was taken to Eastern State Hospital, where he stayed for three weeks before returning to jail. At Eastern State Hospital, Mr. Spencer was given a full psychological evaluation. According to doctors, the defendant is prone to alcohol abuse and has a tendency to act out under the influence of alcohol or other drugs. He has been diagnosed with alcohol use disorder (more commonly known as "alcoholism" or "alcohol addiction").

The defense will now present expert testimony from a clinical psychologist. Please read it carefully.

APPENDIX O

Expert Testimony I

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TUESDAY, JANUARY 8, 2015: DOTHAN, ALABAMA

A F T E R N O O N S E S S I O N

P R O C E E D I N G S

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THE COURT: All right. We're back on the record. Mr. Harrison, you may proceed with your direct examination of the expert witness, Dr. Brown.

MR. HARRISON: Thank you, Your Honor. May I approach?

THE COURT: Yes.

DR. DOUGLAS LEWIN BROWN

called as a witness by and on behalf of TIMOTHY SPENCER, was sworn, examined and testified as follows:

DIRECT EXAMINATION

BY MR. HARRISON:

Q: State your name please, sir?

A: Douglas Lewin Brown.

Q: Okay. Where are you employed?

A: I'm self-employed here in Birmingham, Alabama.

Q: In what capacity?

A: I'm a uh, a clinical psychologist.

Q: All right, sir. And what training and experience have

1 you had for your position as a, as a clinical psychologist?

2 **A:** I received my Ph.D. from Loyola and then did a post-
3 doctoral fellowship in forensic psychology at Rochester Medical
4 Center.

5 **Q:** OK- briefly- can you briefly describe the specialized
6 training you've received in the area of forensic psychology?

7 **A:** Yes. Well, I took several classes on clinical psychology
8 while in graduate school. I was trained in the use of specific
9 measures and scales that are used in forensic settings. I, uh,
10 conducted several forensic assessments while in graduate school
11 and was supervised by a licensed clinical psychologist. I also
12 completed two years of post-doctoral training with a
13 specialization in forensic psychology.

14 **Q:** Are you licensed in this state?

15 **A:** Yes, I have been licensed in this state for over uh, 10
16 years.

17 **Q:** Dr. Brown, I understand that you have had a chance to
18 review Timothy Spencer's records from Eastern State Hospital, is
19 that correct?

20 **A:** Yes.

21 **Q:** Okay. Where was Timothy born?

22 **A:** Um, in his grandmother's house.

23 **Q:** And from that day forward, where did he live or who did
24 he live with?

1 **A:** It is my understanding that he lived with his
2 grandmother until approximately age 14.

3 **Q:** Have you been able to determine whether he was born
4 legitimately? Did he have a legitimate father? Were his father
5 and his mother married?

6 **A:** No, they were not married.

7 **Q:** All right. Do you know who his father was?

8 **A:** Uh, I have read the name Ralph Black.

9 **Q:** Ok, now- have you- Do you know where his father lives?

10 **A:** No, I do not.

11 **Q:** Were you able to see, in the information you had,
12 whether his father had ever lived in the home with him or
13 whether or not he had ever known his father?

14 **A:** According to my information, no. He has never had
15 contact with his father whatsoever.

16 **Q:** All right. Now, what about his mother- Did his mother
17 live there in the home?

18 **A:** Until he was about two years old.

19 **Q:** Okay. And then where did she go?

20 **A:** She left him with his grandmother and uh, purportedly
21 went to New Jersey.

22 **Q:** And do you know anything about Timothy's grandmother,
23 uh, Gloria Spencer, um, or have you met with her personally?

24 **A:** I have not met with her personally. I have read over Mr.

1 Spencer's records and the hospital report. There is a great deal
2 of information about Mr. Spencer's relationship with his uh,
3 grandmother. By all accounts, she was a uh, she was a loving
4 caretaker and she was that way about her children and
5 grandchildren. She helped her neighbors quite a bit and watched
6 over some of the other children in the neighborhood. She has a
7 very good reputation in the community.

8 Q: Are you saying that Mr. Spencer came from a good family?

9 A: Well, his grandmother was a very caring individual and
10 provided a good family environment and safe home for Timothy
11 during his childhood years before she passed away.

12 Q: Okay - His grandmother, Gloria, you're saying was a good
13 influence - um, a type of woman that would make a good influence
14 on her children and other young people?

15 A: That's right.

16 Q: All right. So he lived with Gloria during his younger
17 years. Did Timothy's mother - did she ever come back?

18 A: She came in and out, uh, but she moved back to Dothan,
19 Alabama when Timothy was approximately uh, 14 years old.

20 Q: Okay. And after she moved back to Dothan, do you know
21 what living arrangements were made as far as Timothy was
22 concerned?

23 A: Uh, yes. At this point, Timothy's life was somewhat
24 destabilized by his mother's return. Timothy went to live with

1 his mother or was supposed to. He ended up going back and forth
2 between his mother's and grandmother's home and lived on the
3 streets at times in between.

4 Q: And he had no certain place to live, is that what you're
5 saying?

6 A: That's right. And when his grandmother passed away when
7 he was 16 years old, he really had no place to go. His mother
8 was simply not a stable caretaker. She moved around often and
9 essentially left Timothy to fend for himself.

10 Q: Did Timothy attend school?

11 A: He stopped attending school around this same time, that
12 is -- when his grandmother died. It is my understanding that Mr.
13 Spencer stopped attending school prior to finishing his tenth
14 grade year.

15 Q: In your investigation of Mr. Spencer's records and the
16 report from the hospital, have you come across anything -- well,
17 let me ask you this, did Timothy exhibit behavioral problems as
18 a young boy?

19 A: Well, I reviewed some of his school records and there
20 were notes about him misbehaving in class and performing poorly
21 academically. His teachers complained of him acting out. They
22 noted he was impulsive and hyper.

23 Q: And was anything ever done for him?

24 A: Well, the adults in Timothy's life were financially very

1 poor. Um, the grandmother made some money by cleaning houses
2 sometimes. Timothy's mother did not send regular support.
3 Timothy's mother could barely take care of herself, let alone a
4 child. In my review of the records, Timothy did not receive any
5 type of therapy or counseling, or tutoring as a youth even
6 though this was recommended several times by various teachers.

7 Q: Dr. Brown, I am showing you what's been marked Defendant
8 Exhibit Number 1. Do you recognize that?

9 A: Yes, I do.

10 Q: All right. What you have right there- what is that a
11 copy of?

12 A: This is a copy of a letter from Eastern State
13 Hospital to the court here regarding the evaluation of
14 Mr. Timothy James Spencer.

15 Q: Okay. And you said that along with the records provided,
16 you have gone over that evaluation yourself?

17 A: I have looked over it, yes.

18 Q: Dr. Brown, have you gone over Eastern State Hospital's
19 findings as to Timothy Spencer's mental condition?

20 A: I have.

21 Q: Okay, and have you examined Timothy yourself?

22 A: I have not.

23 Q: Okay. So all you know is what you've read in the report
24 from the hospital. Is that correct?

1 **A:** That's what they said.

2 **Q:** All right. As I basically see- what you're saying is
3 this defendant, Timothy Spencer, had a lack of support while
4 growing up and never received adequate treatment for his
5 impulsivity and acting out behavior in school?

6 **A:** Yes. Basically he had no one in his life to keep him on
7 track.

8 **Q:** But, despite his unfortunate upbringing, he'd still
9 pretty much know what he was doing, would he not?

10 **A:** Are you asking me would an individual like that be
11 responsible for their acts?

12 **Q:** I'm asking if he would know he was pulling that trigger
13 and he'd know what he was doing?

14 **A:** It's possible. And I hedge on that because there are a
15 lot of things that would go into that type of distinction that,
16 you know, number one, I could never attest one way or the other
17 unless I was there and even then I'd have to be inside the
18 individual. And I can't be. Secondly, a lot of times people will
19 do things and not have an understanding of why it is they're
20 doing it and continue to do the same type of maladaptive things
21 over and over. It's like uh, it's like - an individual who will
22 commit a crime and get caught. He gets out of prison he will
23 recommit another crime the same way, make the same mistake, get
24 caught the same way and continue to do the same type of patterns

1 over and over and over again. For instance, consider the
2 individual that drinks too much, gets picked up DWI, put in
3 jail, knows he shouldn't do it, turns right around the next
4 weekend and does it again, over and over and over.

5 Q: So, um, some of these people are likely -

6 A: He's aware, but, at the same time, uh, doesn't have the
7 adaptive patterns to stop doing that type of thing.

8 Q: So these people -

9 A: Responsible, but not adaptive.

10 Q: Uh - ok. So, they're likely to commit the same things
11 over and over again?

12 A: They make the same type of mistakes very often.

13 Q: Okay. That's all.

14 THE COURT: Do y'all need this witness any further?

15 Q: No, sir.

APPENDIX P

Expert Testimony II

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TUESDAY, JANUARY 8, 2015: DOTHAN, ALABAMA
AFTERNOON SESSION
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THE COURT: All right. We're back on the record. Mr. Harrison, you may proceed with your direct examination of the expert witness, Dr. Brown.

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BY MR. HARRISON:

Q: State your name please, sir?

A: Douglas Lewin Brown.

Q: Okay. Where are you employed?

A: I'm self-employed here in Birmingham, Alabama.

Q: In what capacity?

A: I'm a uh, a clinical psychologist.

Q: All right, sir. And what training and experience have

1 you had for your position as a, as a clinical psychologist?

2 **A:** I received my Ph.D. from Loyola and then did a post-
3 doctoral fellowship in forensic psychology at Rochester Medical
4 Center.

5 **Q:** OK- briefly- can you briefly describe the specialized
6 training you've received in the area of forensic psychology?

7 **A:** Yes. Well, I took several classes on clinical psychology
8 while in graduate school. I was trained in the use of specific
9 measures and scales that are used in forensic settings. I, uh,
10 conducted several forensic assessments while in graduate school
11 and was supervised by a licensed clinical psychologist. I also
12 completed two years of post-doctoral training with a
13 specialization in forensic psychology.

14 **Q:** Are you licensed in this state?

15 **A:** Yes, I have been licensed in this state for over uh, 10
16 years.

17 **Q:** Dr. Brown, I understand that you have had a chance to
18 review Timothy Spencer's records from Eastern State Hospital, is
19 that correct?

20 **A:** Yes.

21 **Q:** Okay. Where was Timothy born?

22 **A:** Um, in his grandmother's house.

23 **Q:** And from that day forward, where did he live or who did
24 he live with?

1 **A:** It is my understanding that he lived with his
2 grandmother until approximately age 14.

3 **Q:** Have you been able to determine whether he was born
4 legitimately? Did he have a legitimate father? Were his father
5 and his mother married?

6 **A:** No, they were not married.

7 **Q:** All right. Do you know who his father was?

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9 **Q:** Ok, now- have you- Do you know where his father lives?

10 **A:** No, I do not.

11 **Q:** Were you able to see, in the information you had,
12 whether his father had ever lived in the home with him or
13 whether or not he had ever known his father?

14 **A:** According to my information, no. He has never had
15 contact with his father whatsoever.

16 **Q:** All right. Now, what about his mother- Did his mother
17 live there in the home?

18 **A:** Until he was about two years old.

19 **Q:** Okay. And then where did she go?

20 **A:** She left him with his grandmother and uh, purportedly
21 went to New Jersey.

22 **Q:** And do you know anything about Timothy's grandmother,
23 uh, Gloria Spencer, um, or have you met with her personally?

24 **A:** I have not met with her personally. I have read over Mr.

1 Spencer's records and the hospital report. There is a great deal
2 of information about Mr. Spencer's relationship with his uh,
3 grandmother. By all accounts, she was a uh, she was a loving
4 caretaker and she was that way about her children and
5 grandchildren. She helped her neighbors quite a bit and watched
6 over some of the other children in the neighborhood. She has a
7 very good reputation in the community.

8 Q: Are you saying that Mr. Spencer came from a good family?

9 A: Well, his grandmother was a very caring individual and
10 provided a good family environment and safe home for Timothy
11 during his childhood years before she passed away.

12 Q: Okay - His grandmother, Gloria, you're saying was a good
13 influence - um, a type of woman that would make a good influence
14 on her children and other young people?

15 A: That's right.

16 Q: All right. So he lived with Gloria during his younger
17 years. Did Timothy's mother - did she ever come back?

18 A: She came in and out, uh, but she moved back to Dothan,
19 Alabama when Timothy was approximately uh, 14 years old.

20 Q: Okay. And after she moved back to Dothan, do you know
21 what living arrangements were made as far as Timothy was
22 concerned?

23 A: Uh, yes. At this point, Timothy's life was somewhat
24 destabilized by his mother's return. Timothy went to live with

1 his mother or was supposed to. He ended up going back and forth
2 between his mother's and grandmother's home and lived on the
3 streets at times in between. He quickly fell into drinking
4 alcohol with friends on the streets.

5 Q: And he had no certain place to live, is that what you're
6 saying?

7 A: That's right. And when his grandmother passed away when
8 he was 16 years old, he really had no place to go. His mother
9 was simply not a stable caretaker. She moved around often and
10 essentially left Timothy to fend for himself.

11 Q: Did Timothy attend school?

12 A: He stopped attending school around this same time, that
13 is – when his grandmother died. It is my understanding that Mr.
14 Spencer stopped attending school prior to finishing his tenth
15 grade year.

16 Q: In your investigation of Mr. Spencer's records and the
17 report from the hospital, have you come across anything – well,
18 let me ask you this, did Timothy exhibit behavioral problems as
19 a young boy?

20 A: Well, I reviewed some of his school records and there
21 were notes about him misbehaving in class and performing poorly
22 academically. His teachers complained of him acting out. They
23 noted he was impulsive and hyper.

24 Q: And was anything ever done for him?

1 **A:** Well, the adults in Timothy's life were financially very
2 poor. Um, the grandmother made some money by cleaning houses
3 sometimes. Timothy's mother did not send regular support.
4 Timothy's mother could barely take care of herself, let alone a
5 child. In my review of the records, Timothy did not receive any
6 type of therapy or counseling, or tutoring as a youth even
7 though this was recommended several times by various teachers.

8 **Q:** Dr. Brown, I am showing you what's been marked Defendant
9 Exhibit Number 1. Do you recognize that?

10 **A:** Yes, I do.

11 **Q:** All right. What you have right there- what is that a
12 copy of?

13 **A:** This is a copy of a letter from Eastern State
14 Hospital to the court here regarding the evaluation of
15 Mr. Timothy James Spencer.

16 **Q:** Okay. And you said that along with the records provided,
17 you have gone over that evaluation yourself?

18 **A:** I have looked over it, yes.

19 **Q:** Dr. Brown, have you gone over Eastern State Hospital's
20 findings as to Timothy Spencer's mental condition?

21 **A:** I have.

22 **Q:** Okay, and have you examined Timothy yourself?

23 **A:** I have not.

24 **Q:** Okay. So all you know is what you've read in the report

1 from the hospital. Is that correct?

2 **A:** I have no knowledge other than what's in the report and
3 uh, what has been provided to me in the records.

4 **Q:** All right. Now, Doctor, in the report there, does it
5 explain features of Mr. Spencer's psychological condition?

6 **A:** Well, the report further elaborates on the defendant's
7 chaotic upbringing and lack of guidance as a youth. He displayed
8 behavioral and academic problems during his school years, but no
9 one intervened. It discusses him being homeless during his youth
10 and using alcohol at a very young age.

11 **Q:** Do the doctors at Eastern State make a diagnosis of
12 Timothy James Spencer?

13 **A:** They diagnose him as having alcohol use disorder.

14 **Q:** And what exactly is alcohol use disorder? Is this like
15 addiction?

16 **A:** Essentially, yes. Alcohol use disorder is diagnosed when
17 a person's drinking causes them distress or harm. The person
18 would also typically experience cravings for alcohol, a loss of
19 control in that they likely would have trouble stopping drinking
20 once they start. Withdrawal symptoms and increased tolerance to
21 alcohol are also characteristic of alcohol use disorder.

22 **Q:** Okay, all right. Now, what else does the report say with
23 regard to Mr. Spencer's psychological evaluation and diagnosis?

24 **A:** Okay. The evaluation done on Mr. Spencer apparently was

1 done without any effects from substances like alcohol and drugs
2 and the like and under the conditions of the evaluation.
3 However, according to this report, Mr. Spencer has long history
4 of substance abuse with the potential for acting out under the
5 influence of alcohol.

6 Q: But, you say that he was evaluated down there and during
7 his evaluation, he was not under the influence of any substance
8 such as drugs or alcohol?

9 A: Right, and then, under the influence of something, there
10 would be a potential for him acting out in a different type of
11 way.

12 Q: Now, Doctor, I would like for you to just explain to the
13 jury that given Timothy's type of disorder and history of
14 substance abuse...the drinking... if we considered the
15 hypothetical that he was under the influence of alcohol, what
16 would his reaction be?

17 A: Okay. Based on what Eastern State is saying, under the
18 influence of alcohol, Mr. Spencer would have the potential for
19 acting out in a very impulsive way. This means he would do
20 things perhaps he wouldn't do if he were not drinking or using
21 drugs or something like that. And generally that type of
22 behavior is unpredictable, doing things that you would not
23 expect if substances were not involved.

24 Q: Now, are you saying that in view of the results of this

1 diagnosis and analysis, a person suffering from these things
2 that you testified to- this person may not act in a manner that
3 he normally acts if he's not under the influence of these
4 substances?

5 **A:** According to Eastern State, they're saying there would
6 be the potential for abnormal behavior under the influence of
7 substances.

8 **Q:** Basically, what you're saying, now, Dr. Brown, given
9 this person's psychological features and social history, the
10 alcohol addiction and the substance abuse, you have these acting
11 out tendencies? You're saying the type of person that was
12 diagnosed at Eastern State Hospital would be the type of person
13 who, under the influence of a substance, would act abnormally or
14 not normally?

15 **A:** One could say that.

16 **Q:** Recklessness as indicated by impulsive behavior? Things
17 like driving while intoxicated, right? What we're actually
18 talking about aren't we, Doctor, is that substance abuse is
19 likely just to heighten some of the impulsivity?

20 **A:** Yes. And, uh, also possibly bring out other repressed
21 behaviors.

22 **Q:** Okay, and what about a person who, while under the
23 influence, robs a convenience store and shoots someone in the
24 head? That would be somewhat of an act in which the person who

1 commits it was acting impulsively due to the effects of a
2 substance?

3 **A:** Well, uh, if - If that's all the information I had -

4 **Q:** If that - if you accept that hypothetical as true, say
5 this jury in this courtroom has decided that those are the facts
6 in this case and you take those facts as true, that he shot
7 someone in the head uh, in order to get some money...this
8 indicates his motives were driven by the alcohol causing him to
9 act on impulse?

10 **A:** If that's all that's known, I agree wholeheartedly with
11 you. But, in my particular field, what we try to do is look
12 beyond the situation or behavior specifically and look to the
13 individual. And that's behavior and since I don't know the
14 individual, um, I can't attest to whether or not there is
15 any relationship.

16 **Q:** Okay. Thank you, Dr. Brown.

17 **THE COURT:** Anything else?

18 **MR. HARRISON:** No, Your Honor.

19 **THE COURT:** Okay. Mr. Miller?

20

21 **CROSS EXAMINATION**

22 **BY MR. MILLER:**

23 **Q:** Dr. Brown, I noticed over there on the second page of
24 the report from Eastern State, doctors reported Mr.

1 Spencer's insight appeared fair. Also, according to those
2 records, his intellectual capacity appeared to be within normal
3 limits, is that correct?

4 **A:** That's what they said.

5 **Q:** All right. As I basically see- what you're saying is
6 this defendant, Timothy Spencer, had a lack of support while
7 growing up and never received adequate treatment for his
8 impulsivity and acting out behavior in school? Also, if they
9 were correct, but we don't know what they based this on - they
10 are saying he may possibly display different behaviors while
11 he's addicted or he's ingesting some kind of substance like
12 alcohol?

13 **A:** Yes.

14 **Q:** But, even if he is ingesting alcohol to a certain
15 extent, unless he was just stupefied out of his mind, he'd still
16 pretty much know what he was doing, would he not?

17 **A:** Are you asking me would an individual like that be
18 responsible for their acts?

19 **Q:** I'm asking if he would know he was pulling that trigger
20 and he'd know what he was doing?

21 **A:** It's possible. And I hedge on that because there are a
22 lot of things that would go into that type of distinction that,
23 you know, number one, I could never attest one way or the other
24 unless I was there and even then I'd have to be inside the

1 individual. And I can't be. Secondly, a lot of times people will
2 do things and not have an understanding of why it is they're
3 doing it and continue to do the same type of maladaptive things
4 over and over. It's like uh, it's like - an individual who will
5 commit a crime and get caught. He gets out of prison. He will
6 recommit another crime the same way, make the same mistake, get
7 caught the same way and continue to do the same type of patterns
8 over and over and over again. For instance, consider the
9 individual that drinks too much, gets picked up DWI, put in
10 jail, knows he shouldn't do it, turns right around the next
11 weekend and does it again, over and over and over.

12 Q: So, um, some of these people are likely -

13 A: He's aware, but, at the same time, uh, doesn't have the
14 adaptive patterns to stop doing that type of thing.

15 Q: So these people -

16 A: Responsible, but not adaptive.

17 Q: Uh - ok. So, they're likely to commit the same things
18 over and over again?

19 A: They make the same type of mistakes very often.

20 Q: Isn't that one characteristic of substance abuse, one of
21 the things that you look for -- is that the person does not
22 learn from previous negative experiences with alcohol?

23 A: Yes, well...it depends on the substance but yes, that's
24 characteristic of all substance abuse disorders.

1 Q: Okay. That's all.

2 **THE COURT:** Do y'all need this witness any further?

3 Q: No, sir.

APPENDIX Q

Quality Assurance Questionnaire

Who primarily raised Timothy Spencer?

- His aunt
- His grandmother, Gloria
- His father

Did Timothy Spencer have a relationship with his father?

- Yes
- No

What is the name of the hospital where Timothy Spencer was evaluated?

- St. Joseph's Hospital
- St. Vincent's Hospital
- Eastern State Hospital
- Western State Hospital

Did the defendant, Timothy Spencer, graduate from high school?

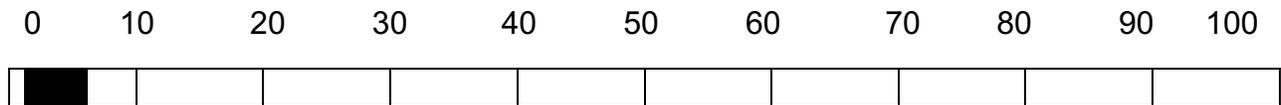
- Yes
- No

APPENDIX R

Juror Decision-Making Questionnaire

Please think as if you are a juror on this case and determine what sentence is appropriate for Mr. Spencer. Even though you may want additional details regarding this case, specific questions regarding the case history or testimony will not be answered. Like all jurors, you must rely on the information you have been presented to reach your decision. Answer the next three questions as best you can. If you have no opinion or are unsure at this time, please provide YOUR BEST JUDGEMENT.

Before making the ultimate decision regarding the appropriate sentence in this case, please use the slider below to represent yourself on a scale of 0 to 100, with 0 indicating you are FULLY IN FAVOR OF LIFE IN PRISON, and 100 indicating you are FULLY IN FAVOR OF THE DEATH SENTENCE for this defendant, Mr. Spencer:



Please indicate your sentencing decision:

LIFE IN PRISON WITHOUT PAROLE _____
DEATH _____

What factor(s) influenced your sentencing decision the most?

APPENDIX S

Message to Community/MTurk Respondents Who Failed Quality Assurance

Thank you for your willingness to participate in this research. We are sorry, but one or more of your responses indicated you did not attend sufficiently to study stimuli. Your data will not be used for this research, and you are deemed ineligible to receive the monetary incentive of \$0.25.

You may call the researcher, Jessica A. Boyle, at ethanolmitigation@gmail.com or 205-348-5083 if you have any questions after this.

You can also call or email her supervisor, Dr. Stanley Brodsky, Ph.D., at stanley.brodsky@ua.edu or 205-348-5083. He is a licensed clinical psychologist and professor. He is available if you have any questions about this part of the study.

Finally, you can also choose to call Ms. Tanta Myles, Research Compliance Officer at 205-348-8461 or toll-free at 1-877-820-3066. She can answer any questions or concerns you have about your rights as you take part in this study. You may also ask questions, make suggestions, or file complaints and concerns through the IRB Outreach website at http://osp.ua.edu/site/PRCO_Welcome.html or email participantoutreach@bama.ua.edu. After you participate, you are encouraged to complete the survey for research participants online at the outreach website or you may ask the investigator for a copy of it and mail it to the University Office for Research Compliance, Box 870127, 358 Rose Administration Building, Tuscaloosa, AL 35487-0127.

APPENDIX T

IRB Approval for the Current Study

Office for Research
Institutional Review Board for the
Protection of Human Subjects



June 23, 2015

Jessica Boyle
Dept. of Psychology
College of Arts & Sciences
Box 870348

Re: IRB#: 15-OR-204 "Alcohol Related Mitigation and Juror Decision-Making"

Dear Ms. Boyle:

The University of Alabama Institutional Review Board has granted approval for your proposed research.

Your application has been given expedited approval according to 45 CFR part 46. You have also been granted the requested waivers of parental permission and written documentation of informed consent. Approval has been given under expedited review category 7 as outlined below:

(7) Research on individual or group characteristics or behavior (including, but not limited to, research on perception, cognition, motivation, identity, language, communication, cultural beliefs or practices, and social behavior) or research employing survey, interview, oral history, focus group, program evaluation, human factors evaluation, or quality assurance methodologies

Your application will expire on June 22, 2016. If your research will continue beyond this date, complete the relevant portions of the IRB Renewal Application. If you wish to modify the application, complete the Modification of an Approved Protocol Form. Changes in this study cannot be initiated without IRB approval, except when necessary to eliminate apparent immediate hazards to participants. When the study closes, complete the appropriate portions of the IRB Request for Study Closure Form.

Please use reproductions of the IRB approved stamped information sheets to obtain consent from your participants.

Should you need to submit any further correspondence regarding this proposal, please include the above application number.

Good luck with your research.

Sincerely,

A handwritten signature in blue ink, appearing to read "Carpanato T. Myles".

Carpanato T. Myles, ~~MSM~~, CIM, CIP
Director & Research Compliance Officer



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