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Discussion 1K

Assignment #4

Conley claims that, despite the law's natural reliance on the communication of truth through language, other factors tend to make an unintended impact as well when it comes to a trial by jury (Conley, 87). These factors have the potential to alter the decision-making of jurors, both for and against the defendant, as jurors are permitted to assess non-verbal cues in deciding a verdict.

One of the first actions Conley mentions is the face-to-face encounter between juror and defendant (Conley 92). Conley claims that such an encounter can force the juror to empathize with the defendant, humanizing them in the moment. From this, the juror is forced to contend with the obvious dissonance between their preconceptions of the defendant as an evil being and the actual human sitting in front of them. Conley also mentions how the physical arrangement of the courtroom may play into the defendant's favor (Conley 94). Spatially, the defendant is located in the same place as the attorneys, and, in the case of Conley's studies, directly in line of sight of the jurors as they walked in. This once again aids in humanizing the defendant, but also allows the jurors to view them in a more authentic environment, free from being "on the record" (Conley 102). Even while the defendant is being tried, this line of sight gives the jurors direct access to, what they believe are, the defendant's emotions. For instance, signs of remorse from the defendant, such as displays of emotion or vulnerability, tend to work in favor of the defendant, helping the jurors empathize with them more (Conley, 109). While these emotions

may be communicated through linguistic expression, the emotion behind them tends to capture the jurors' attention, rather than the semantics of the expression itself.

In terms of distancing the defendant from the jurors, the inverse of many of the prior points apply. While the presence of the defendant may serve to humanize them, it can also bring fear and discomfort to the jurors. The ability to read the emotions of the defendant can serve to incite empathy from the jurors, but only if the defendant behaves in line with the jurors' view of a "human being" (Conley, 108). Otherwise, their indifference may actually serve to strip away their human characteristics. When looking at court proceedings linguistically, this process of dehumanization becomes even more prevalent. For instance, prosecutors tend to avoid the use of the defendant's name during trial, preferring to refer to them as generalized terms like "the defendant" or "the person". This allows the prosecutor to turn the defendant into a *something* rather than a *someone*, making it less likely that the jury will be able to empathize with them (Conley 135). This use of demonstratives is shown to be reflected in the jurors' own recollection of the trial, proving that characterization of defendants as "that person" or "not a normal person" significantly contributes to a lack of empathy by the jury (Conley 142).