PERSONALITY IN JUROR DECISION-MAKING: TOWARD AN IDIOGRAPHIC APPROACH IN RESEARCH

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I. INTRODUCTION***

During voir dire, jurors are asked to admit their own biases – a tall order, since a basic tenet of psychology is that people do not often even know their own biases and when they do, they may be reluctant to reveal them.1 Attorneys therefore face a difficult decision in selecting jurors, relying on various strategies that may or may not be valid. They might consider a juror’s life experiences and demographics such as age, gender, or occupation. They might also rely on “implicit personality theor[ies],”2 which are personal notions regarding how certain qualities a person possesses might predict their behaviors.3 In big cases, attorneys often hire trial consulting firms to assist with selecting jurors who are likely to favor their client.4 Trial consultants utilize forms of strategic jury selection informed by social psychological research.5 The relevant research ranges from the study of the relation of juror attitudes and demographic characteristics to the study of jurors’ body language as a predictor of verdict preferences.6 The study of personality has also long been of great interest to those interested in predicting juror behavior.7 In fact, there now exists a large body of psychological research devoted to identifying personality factors (e.g., neuroticism, authoritarianism, empathy) that predict jurors’

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3. See id.  
5. Id.  
6. See Saks, supra note 1, at 5.  
7. See Strier, supra note 4, at 96-98.
verdicts. But to what extent do jury selection techniques informed by personality research actually yield accurate predictions of case outcomes? Many psychologists are skeptical of the utility of jury selection and for good reason – juror demographic variables and personality measures often do not correlate strongly with verdicts. In fact, there appears to have been a recent noticeable decline in the amount of research exploring juror personality measures as predictors of juror behavior.

The goals of this paper are two-fold. One objective is to bring relevant research in psychology to legal professionals and thereby allow judges and lawyers to better administer justice. Another goal is to provide an important theoretical advance to the field of psychology and the law by highlighting the shortcomings of a popular approach to personality research. We will introduce a novel application of personality research, which we propose will facilitate the prediction of juror decisions. In this paper we choose a few examples from personality research in the field of psychology and the law to highlight the weak and inconsistent relationships between personality factors and jurors’ judgments. We propose that these weak relations can be attributed to psychology and the law’s sole reliance on nomothetic assessments of personality – assessments whose construction is based on the assumption that everyone possesses the same personality qualities being measured, but simply differ from each other in the degree to which they possess these qualities.

We will briefly review the assumptions of a nomothetic approach to the study of personality in predicting jurors’ judgments, and explain why this approach is responsible for the lack of strong and consistent relationships between personality factors and case judgments. Next, we will explain an alternative approach to the study of personality, namely the idiographic approach. This approach’s assessments are rooted in the empirically-validated idea that people do not simply differ in the degree to which they possess qualities, but perhaps also in the kind of qualities they possess and in the situations that bring out those qualities. We will demonstrate why the idiographic approach might prove to be more appropriate for addressing the complex and idiosyncratic nature of personality in juror decision-making. We will then offer a novel methodology for studies aimed at predicting juror decision-making.

9. See VALERIE P. HANS & NEIL VIDMAR, JUDGING THE JURY 90 (1986); Saks, supra note 1, at 21-22; Strier, supra note 4, at 99.
II. BRIEF REVIEW OF PERSONALITY AS A PREDICTOR OF JURORS’ DECISIONS: A NOMOTHETIC APPROACH

The study of personality has long been dominated by the nomothetic approach, which is the study of individual tendencies based on the assumption that all individuals possess the same basic set of personality qualities (e.g., traits, attitudes) but differ only in how much they have of each. For instance, if one were interested in the effect of empathy on juror judgments, a nomothetic assessment strategy might include administering a questionnaire that measures this quality to a number of people and then examining the extent to which quantitative variations in the measure explain variations in juror judgments. An additional assumption of the nomothetic approach is that these qualities are context free – that is, the individual who is comparatively high in empathy will be higher than others in empathy across all types of contexts, including court cases.

As pointed out by Fulero and Penrod, studies that test the nomothetic assumption that juror dispositions and attitudes reliably predict juror judgments have generally shown the opposite – that attitudes are often poor predictors of juror behavior. In fact, Fulero and Penrod conducted a review of studies that explored the effect of juror personality, juror attitudes, and juror demographics on verdict preferences. They found weak relations between demographic and personality variables and verdict preferences, with explained variances ranging from 5% to 15%. That is, out of all juror judgments, only 5% to 15% were accurately predicted by demographic and personality variables. A more recent study assessed the relationship between the “Big Five” personality traits and juror case decisions. It found that only extraversion significantly predicted juror acquittals, and this finding only applied in criminal, but not civil, cases. This is a good example of a study that failed to find pervasive relationships between personality traits and juror case judgments.

One study that broadly exemplifies personality research in legal psychology is a survey of jurors rendering verdicts in felony cases between

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10. See generally MICHAEL W. EYSENCK, PERSPECTIVES ON PSYCHOLOGY 74-75 (1994) (describing the nomothetic approach).
11. Fulero & Penrod, supra note 8, at 246-47.
12. Id. at 250-51.
13. Id. at 251.
15. Id. at 654.
1975 and 1976.16 Moran and Comfort administered a series of twelve personality questionnaires consisting of items from the following measures: (a) a Guilt Prone Scale, which measures conviction-prone attitudes; (b) the Dean Alienation Scale, which assesses feelings of powerlessness and isolation; (c) two subscales of the Nettler Alienation Scale, which measures pro- and anti-family attitudes and attitudes toward religion; (d) the James Internal External Locus of Control Scale, which measures perceived control one feels he or she has over one’s life outcomes; (e) the Rehfisch Rigidity Scale, which measures anxiety and neuroticism; (f) a measure of authoritarianism, which measures respect for authority figures; (g) a measure of legal authoritarianism; (h) the Just World Scale, which measures a belief in the world’s innate justice; (i) the Socialization scale of the California Psychological Inventory, which assesses the degree to which one has respect for societal rules and norms; (j) the Hogan Empathy Scale, which assesses one’s tendency toward feelings of empathy; (k) the Kurtines Autonomy Scale, which measures one’s personal sense of duty and autonomy; and (l) the Marlowe-Crowne Social Desirability Scale, which measures one’s proclivity to respond to questions in a socially desirable manner.17 They also assessed a series of demographic variables such as race, age, income, education level, and gender.18 Only two demographic variables (income and number of children) correlated with men’s verdicts to a degree that was statistically reliable (\( r = -.14 \) and \( r = .24 \) respectively), and none correlated with women’s verdicts.19 Only two of the twelve personality measures significantly correlated with men’s verdicts: the Marlowe-Crowne Social Desirability Scale (\( r = -.06 \)) and authoritarianism (\( r = .17 \)).20 Only three personality measures correlated significantly with women’s verdicts: the Just World Scale (\( r = .24 \)), the Dean Alienation Scale (\( r = -.20 \)), and the legal authoritarianism scale (\( r = .18 \)).21 Thus, these few variables do explain some variance in judgments, but even their significant correlations are low (\( r \)-values ranging from approximately .0 to .2).22 In psychological research generally, seldom are effects larger than the .50-.60 range.23 Thus, to the extent that nomothetic assessments of

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17. Id. at 1055.
18. Id.
19. Id. at 1056.
20. Id.
21. Id.
22. Values greater than \( \pm .5 \) are considered to be large effects, values of \( \pm .30 \) -.49 are thought to be medium, and values of \( \pm .10 \) -.29 are thought to be small. See Jacob Cohen, Statistical Power Analysis for the Behavioral Sciences 77-81 (2d ed. 1988).
23. See id. at 78. A large effect of \( r = .5 \) means that 25% of the variance in that judgment is accounted for – nothing to dismiss easily. See id.
personality yield large effects, these effects are noteworthy and deserve attention. Effects ranging from .1 to .2, found in most nomothetic assessments of personality, however, explain very little variance – only 1% to 4% of the variance in judgments. This means, for example, that 96% to 99% of the reason behind jurors’ decisions is due to something other than, say, authoritarianism. Further, given the large number of personality variables assessed by Moran and Comfort, by chance alone we would expect that some would be significantly correlated with judgments.

A. Authoritarianism

The trait of authoritarianism has emerged as a popular measure of personality in mock trial research, as it is one of the better predictors of juror behavior. Even so, authoritarianism is not always a reliable predictor of juror behavior. People high in authoritarianism are theorized to distrust others and find consequences of personal freedom to be unpredictable, thus desiring a life of strict societal order and condemning those who do not adhere to societal norms. Those with an authoritarian personality are more likely to conform to societal norms, follow conventional morals, and stereotype others. Because authoritarians are more likely to condemn and punish those who do not follow societal rules or norms, it follows that high authoritarians should be more conviction-prone than low authoritarians. In fact, numerous mock trial experiments have found such a trend, leading researchers to label authoritarianism as a reliable marker of conviction-prone jurors.

In a meta-analytic review of the literature, Narby and colleagues reviewed studies exploring the relation between mock trial verdicts and both traditional measures of authoritarianism (which assess authoritarian values pertaining to society generally) and measures of legal authoritarianism (which assess authoritarian values pertaining specifically to the legal system). The mock trial scenarios reviewed included various crimes such as murder, rape, and other unspecified felony offenses. All correlations between authoritarianism and convictions were in the direction of higher authoritarianism, leading to more guilty verdicts (r ranging from .00 to .40) with a statistically significant overall correlation between authorita-
arianism and convictions of $r = .16$. In addition, legal authoritarianism predicted convictions more strongly than traditional authoritarianism. They also tested for effects of other variables and found that authoritarianism predicted convictions more strongly (a) for actual jurors than for college students, (b) for live or videotaped trials than for audio or written trials, (c) for unspecified felonies than for murder, and (d) for murder than for rape.

While the authors concluded that there is a consistent correlation between authoritarianism and the tendency to convict, this conclusion arguably glosses over a variety of interesting complexities. For example, there are multiple circumstances under which a relation between authoritarianism and conviction rates is quite low or non-existent. Of the twenty studies included in the meta-analysis, seven studies yielded correlations between .00 and .08 and only three studies yielded correlations greater than .30. Further, the studies reviewed all contained mock trials in which the defendant was accused of socially deviant behaviors like murder, rape, and other typically amoral behaviors – essentially behaviors that contradict authoritarian values.

As Narby and colleagues concede, authoritarianism might be a significant predictor only when the case at hand contradicts authoritarian values. It is easy to imagine trials in which the defendant is accused of a crime that does not contradict authoritarian values (e.g., the defendant is accused of bombing an abortion clinic – an action that might appear to authoritarians as proper retribution for those who administer abortions). Or one might imagine a case in which an authority figure (e.g., a police officer) is accused of a crime. In this case, authoritarians might be motivated to acquit the defendant, thus validating and maintaining their belief in the value of a structured society.

Narby and colleagues also point out another potential moderator that was untested in their meta-analysis – case strength. All of the mock trials they reviewed contained cases that were designed to be ambiguous in terms of defendant guilt or innocence to allow for variability in case judgments. This methodological decision is understandable given that if the case were overwhelmingly in favor of either guilt or innocence, it may be impossible for any effects of personality to emerge. However, in actual

33. Id. at 39.
34. Id.
35. Id.
36. See id. at 38 (Table 1 noting that the 1978 Bray & Noble study and the 1982 McGowen & King study each demonstrated authoritarian-defendant culpability correlations of .00).
37. Id.
38. See id. at 37.
39. See id. at 34, 40.
40. See id. at 40.
41. See id.
trials it is possible that personality variables predict case judgments differently depending on case strength.\textsuperscript{42} For instance, authoritarianism might predict verdicts only in cases with ambiguous evidence, while cases with strong evidence might have less overall variability in conviction, thus rendering authoritarianism as a weak or non-existent predictor.

A study by Penrod is also relevant to this discussion.\textsuperscript{43} Penrod asked mock jurors to make judgments about four different trial scenarios: murder, armed robbery, rape, and negligence.\textsuperscript{44} Correlations between jurors’ verdict preferences for the four cases were very low, with the only statistically significant correlation being between the murder and rape verdicts ($r = -0.131$).\textsuperscript{45} Thus, jurors are not consistently convicting or acquitting across different cases. Rather, jurors differ in conviction tendencies depending on case type, providing evidence against the “conviction-prone” juror personality type which has been promoted by others.\textsuperscript{46} Even though Narby’s meta-analysis showed that authoritarianism significantly predicts verdict preferences, studies with this conclusion typically use only one case scenario thus making it impossible to determine whether the same measure of authoritarianism predicts in different cases. Furthermore, there is always the potential of the “file drawer problem”: in psychology, only articles reporting significant effects are published, so there are certainly studies finding no relation between authoritarianism and judgments that were not published. Not to be underscored, despite an overall correlation between authoritarianism and conviction tendency found in Narby and colleagues’ meta-analysis, this correlation was low ($r = 0.16$) and was also moderated by variables such as case type.\textsuperscript{47}

\textbf{B. Dogmatism}

Another measure of personality that has received a good deal of attention in psycholegal studies is dogmatism. A person high in dogmatism is close-minded, distrusts others, finds the consequences of personal freedom to be unpredictable, desires a life of strict societal order, and condemns

\begin{itemize}
\item \textsuperscript{42} See id.
\item \textsuperscript{43} Steven D. Penrod, Predictors of Jury Decision Making in Criminal and Civil Cases: A Field Experiment, 3 FORENSIC REP. 261 (1990).
\item \textsuperscript{44} Id. at 267.
\item \textsuperscript{45} Id. at 270.
\item \textsuperscript{46} See, e.g., Narby et al., supra note 26, at 39; Penrod, supra note 43, at 270.
\item \textsuperscript{47} Narby et al., supra note 26, at 39. In psychological research, a “moderator” refers to a variable that qualifies a particular relationship between other variables. That is, it specifies when the relationship does and does not hold, or when the relationship is even stronger. Moderator variables are often person variables (such as gender) or situation variables (such as case type). For example, if one variable (such as gender) moderates the effect of a second variable (like authoritarianism) on an outcome (like guilt judgments), this means that the extent to which authoritarianism predicts guilt changes depending on the gender of the participant.
\end{itemize}
those who do not adhere to societal norms. They are very intolerant of ambiguity and tend to take extreme points of view. Thus, dogmatic people have low tolerance for out-groups and a strong respect for authority figures. Though similar to authoritarianism, it does not correlate with right-wing political ideology.

In a mock trial experiment where both a heterosexual and a homosexual defendant were tried for murder, as predicted, dogmatic jurors convicted the homosexual defendant more often than non-dogmatic jurors – a finding the authors suspect was because the prosecuting attorney forced the defendant to admit his sexual preference despite its irrelevance to the crime. Thus, non-dogmatic jurors might have been more suspicious of the attorney’s motives and experienced reactance to this highly biasing and negative information. Regardless, these findings demonstrate the situation-specific nature of dogmatism in that different circumstances of the case (i.e., sexual preference of defendant) changed the relationship between dogmatism and verdicts.

In another mock trial study, a defendant was accused of acquiescing to his terminally ill mother’s wishes to perform euthanasia. In one condition, standard jury instructions were for jurors to obey the law (which would lead to inevitable conviction), whereas in the other condition, jurors were instructed that it is legal to nullify (i.e., disobey) the law. Dogmatic jurors were much more likely than non-dogmatic jurors to be influenced by the judge’s instructions and to convict when given standard jury instructions and to acquit when given nullify jury instructions. Another mock trial study examined a scenario in which a defendant was tried for selling drugs to an undercover policeman. Dogmatic jurors were less likely than non-dogmatic jurors to convict the defendant, but only when the defendant’s entrapment plea was low in legitimacy. There was no signifi-

49. Id.
50. Id.
51. Id.
53. See id.
54. Kerwin & Shaffer, supra note 48, at 142.
55. Id.
56. Id. at 143 (results in Table 1).
58. Id. at 1140.
icant difference between dogmatic and non-dogmatic juries when the entrapment plea was high in legitimacy.\textsuperscript{59}

C. Summary

The results of these studies demonstrate that personality factors like authoritarianism and dogmatism do not predict case judgments across all case types, providing additional evidence that there may be no such construct as a "conviction-prone" juror. Indeed, such a conclusion seems overly simplistic, superficial, and unwarranted by empirical research. Furthermore, it ignores the complex nature of attitudes, experiential factors, and different types of trials that appear to interact with personality factors in complicated ways.

Jurors likely have different cognitive structures that they use to categorize information about people, events, or situations – or in other words, different beliefs or stereotypes that shape their interpretations of a given case.\textsuperscript{60} As pointed out by Diamond, "The evidence presented at trial cannot account for initial disagreements among jurors: all jurors are exposed to the same evidence. The differences in juror reaction must stem from pre-existing differences among the jurors . . . ."\textsuperscript{61}

Because individuals’ beliefs about people or situations vary depending on a variety of factors, it follows that these beliefs might lead to an increased likelihood for conviction in certain cases and acquittal in others. This may further help explain diminished relationships between personality variables like authoritarianism, dogmatism, locus of control, and verdicts. For example, a police officer’s beliefs or stereotypes regarding a crime might be different from a layperson’s beliefs or stereotypes regarding the same crime due to different life experiences. Due to differences in beliefs, a police officer’s degree of authoritarianism might predict his or her judgments in a given case differently than a lay person who scored the same in authoritarianism.

III. SUMMARY OF THE NOMOTHETIC ASSESSMENT OF PERSONALITY IN LEGAL RESEARCH: AN IMPERFECT APPROACH

As just reviewed, the overwhelming majority of personality traits might consistently correlate but only modestly predict jurors’ trial judgments – a critique consistent with that of personality research conducted

\textsuperscript{59} Id.

\textsuperscript{60} See Shari Seidman Diamond & Jonathan D. Casper, Blindfolding the Jury to Verdict Consequences: Damages, Experts, and the Civil Jury, 26 LAW & SOC’Y REV. 513, 516 (1992).

using a nomothetic approach. Thus, it appears that studying personality in juror decision-making using an approach that fails to identify the contexts within which those judgments are made is flawed. Why? As reviewed in this paper, a common finding in personality and juror decision-making research is that juror personality often only predicts in certain types of cases or under certain situations – a contingency that is often ignored in the nomothetic approach. Thus, the reason research in the field has failed to find strong and consistent correlations between juror personality and juror decision-making likely rests on the nomothetic assumption that the expression of personality traits is context-free.

One assumption of the nomothetic approach is that everyone possesses the personality trait that is being measured, and that individuals simply differ from each other in how much of the trait they possess. That is, personality is measured in a relative sense, such that one’s standing on the quality being assessed depends on others in the sample. Therefore, people may be high or low in authoritarianism, according to the nomothetic approach, yet they cannot be said to have an absence of beliefs one would label “authoritarian.” Further, individuals who have the same score on authoritarianism are treated as functionally the same, even though their patterns of responses to items on a measure of it may differ considerably. For instance, the individual who “neither agrees nor disagrees” with all the items on a scale measuring authoritarianism can get the same score as the individual who “strongly agrees” with half the items and “strongly disagrees” with the other half – and these two individuals would be considered identical in their authoritarianism.

The issue, then, concerns what it means to possess the trait being assessed. In the case of authoritarianism, for example, even if we assume that we are assessing beliefs that are actually in the heads of the individuals being assessed, as the above example illustrates, it is not clear whether we are measuring individual differences in the strength of those beliefs or if we are measuring the presence or absence of those beliefs.

Furthermore, if the goal is in fact to measure things inside people’s heads (e.g., beliefs), nomothetic assessment is the wrong tool because, as Borsboom, Mellenbergh, and van Heerden point out, it is illogical to assume that identifying differences in the population at large on personality traits such as authoritarianism is functionally equivalent to finding that each person has, in his or her head, this thing called authoritarianism in an

64. See id. at 306-07.
65. See id. at 20-21.
absolute sense, just as they possess things like goals, beliefs, and plans.\textsuperscript{66} This is because people differing from one another at one point in time is not equivalent to how each person differs from him- or herself across many time points.\textsuperscript{67} Thus, personality structures assessed at the population level may be irrelevant at the individual level and, consequently, inadequate predictors of the behavior and decisions of each individual in the population.\textsuperscript{68}

Another assumption of the nomothetic approach is that traits are cross-situationally consistent.\textsuperscript{69} That is, people are assumed to retain their standing on a given trait, regardless of the situation.\textsuperscript{70} Authoritarianism, for instance, is theorized to be just as predictive of an individual’s behavior in case A as it is in cases B, C, etc. This assumption is not supported by data that demonstrates that there is, in fact, considerable cross-situational variability in overt behavioral tendencies\textsuperscript{71} and self-reported traits,\textsuperscript{72} that these patterns of variability differ from person to person, and are stable across time.\textsuperscript{73} Further, variations in self-reported traits are meaningful – that is, they predict within-person variations in judgments.
about, for instance, self-efficacy, and the likelihood of engaging in humorous behavior.

Similarly, finding that two traits co-vary in the population at large is not equivalent to arguing that the traits co-vary for each person in that population. In turn, it would be illogical to assume that such covariation is evidence that the personality trait causes an individual’s behavior. As Borsboom and colleagues note, the argument that each person’s trait score causes each person’s judgment cannot be substantiated on the grounds that each person’s score, at the level of the person, is “conceptualized as a constant, and a constant cannot be a cause.”

Put another way, one of the requirements for establishing a causal or even correlational relationship between two variables is that one must be able to demonstrate that a change in one is associated with a change in the other. At the level of the individual, then, this would mean that a change in one’s trait level across situations would have to be associated with a change in some outcome of interest across situations. However, within the nomothetic framework, the individual’s trait levels are not theorized to vary across situations – they are constants. Thus, one cannot argue, on basic scientific grounds, that correlations established at the level of the population are reproduced at the individual level.

In sum, the nomothetic approach makes assumptions that are theoretically and empirically problematic. The first problem is the assumption that everyone possesses the beliefs being assessed, and that they only differ in how much they have of those beliefs, such that people who score similarly are functional equivalents. A second problem is the assumption that although people do not differ from situation to situation in their behavioral expressions of the trait (and thus, their scores are constants), it is appropriate to assume that covariations found at the level of the population apply to each individual within it.

Given these problems with the nomothetic approach, we argue that researchers should limit its use to instances when one is only interested in predicting how the average person will behave, given his or her score on the personality variable of interest. However, when one’s goal is to understand determinants of each individual actual juror’s behavior, we recommend assessment tools that measure the potentially idiosyncratic know-

74. See Cervone, supra note 68; Cervone, supra note 66; Cervone et al., Appraisals, supra note 72.
75. See Caldwell et al., supra note 72.
76. See Borsboom et al., supra note 66, at 211 (to say that two factors co-vary means that one factor (e.g., studying) predicts another factor (e.g., grades)).
77. Id.
78. See CAPRARA & CERVONE, supra note 63, at 65.
ledge and beliefs that may vary qualitatively from individual to individual, and to measure the types of cases in which these beliefs are likely to be informative. But can the problems of the nomothetic approach be solved by studying person-by-situation interactions?\footnote{In research, the term “interaction” (sometimes also referred to as “moderation”) means that the effect of one variable changes depending on the level of the other variable. For instance, the number of hours one spends studying is likely to have an effect on one’s GPA. Hours spent studying, however, could interact with the quality of one’s study habits such that the relation between hours spent studying and GPA is evident among individuals with good study habits and absent in those with bad study habits. That is, the effect on one’s GPA of the number of hours spent studying depends on what one is doing during that study time.}

IV. PERSON X SITUATION INTERACTIONS DO NOT RESOLVE PROBLEMS OF THE NOMOTHETIC APPROACH

A potentially obvious solution to the problem of not being able to reliably predict juror behavior would seem to be to simply study person-by-situation interactions. In other words, it might seem as if the solution would be to measure the strength of the relationship between personality variables and juror decisions across a variety of cases to create a taxonomy of cases for which one might seek jurors with particular traits. Three factors argue against this solution. First, the person-by-situation approach is an existing nomothetic approach that is currently being used by many in the field, but which has not brought much in the way of explained variance. We believe that idiographic assessment methods may enable us to explain even more variability in juror behavior than existing nomothetic methods.

Second, the person-by-situation approach treats the meaning of a given case as a constant, when research indicates that situations are often ambiguous in their meaning and that individuals assign different meaning to situations according to stored knowledge, such as beliefs about oneself and the world.\footnote{See, e.g., Caldwell et al., supra note 72; Cervone, supra note 68; Cervone, supra note 66; Cervone et al., Appraisals, supra note 72.} Because individuals differ in their stored knowledge, they will differ in the personal meaning they assign to a given case, thereby requiring the assessment of the particular meaning a juror assigns to a given case in order to maximally predict his or her judgment.\footnote{See generally CAPRARA & CERVONE, supra note 63, at 251-53.} To say that personality psychologists find person-by-situation interactions means that they might find, for instance, that a personality measure (e.g., authoritarianism) predicts behavior in cases like A, but not in cases like B. That is, the effect of authoritarianism changes depending on the situation.

Finally, a person-by-situation approach does not mirror what trial consultants and lawyers currently do when trying to predict jurors’ deci-
If they were to learn, for instance, that extraversion significantly predicted juror acquittals only for criminal cases and not for civil cases, they probably would not select people solely on the basis of their extraversion. Instead, armed with an implicit theory about what kinds of specific beliefs are relevant to the case at hand, they would ask potential jurors about the extent to which they hold those beliefs as well as whether the particular case evokes those beliefs. In short, trial consultants are likely to do something more akin to what we advocate below.

V. A NEW APPROACH: THE IDIOGRAPHIC ASSESSMENT OF PERSONALITY

An idiographic approach that assesses qualitative variations in people’s beliefs and within-person variations concerning when those beliefs are informative might better predict a specific individual’s decision-making. Further, such an approach should lead to a more complex understanding of personality, in terms of interactions between individuals’ schemas, goals, and specific contextual knowledge as well as situations.

What is an idiographic approach to the study of personality? One example is Cervone’s Knowledge-and-Appraisal Personality Architecture (KAPA) – a theory and accompanying methodology formulated to account for two seemingly contradictory findings: (1) individuals differ from situation-to-situation in their behavior, and (2) individuals are consistent in their patterns of situation-to-situation variations.84 What does it mean to be consistent in patterns of variation? Imagine that across three cases a particular juror’s decision record was to acquit on the first, acquit on the second, and convict on the third. That is, her decision-making behavior varied from case-to-case. Were she asked to serve on a jury for three additional similar cases, we would expect her to exhibit this same coherent pattern, as long as each of the cases had the same qualities that drove her earlier decision-making. The “trick,” so to speak, is to identify exactly what those qualities were and why they prompted different responses from case-to-case.

The KAPA model accomplishes this by taking a “bottom-up” approach to explain coherent patterns of situation-to-situation variations in behavior.85 Within this approach, one assesses the knowledge and beliefs that are theoretically expected to give rise to an individual’s unique pattern

83. See Strier, supra note 4, at 96-99 (providing brief synopsis of the most common tools used to gauge potential jurors).
84. See Cervone, supra note 68, at 186-87; Cervone, supra note 66, at 439.
In contrast, within a “top-down” approach one specifies overarching personality structures (e.g., authoritarianism) that are used to describe and explain how individuals differ from one another. The KAPA model makes a distinction between two different kinds of personality variables: knowledge and appraisals. Knowledge refers broadly to an individual’s stored beliefs about him- or herself and the world that are accumulated as a function of one’s life experiences. One might think of knowledge as the kind of information a researcher learns about a person when handing out a questionnaire that assesses, for instance, authoritarianism. Particular contents of knowledge differ from person to person, but are stable across time and situations. That is, if an individual believes that she is a person who values strict morals, she carries that knowledge with her when she is deciding whether to convict an individual on drug charges or when deciding whether to have pasta or chicken for dinner. If these beliefs are so enduring, why then do they not consistently predict jurors’ decisions? The answer is derived from theory and research on the nature of human cognition: though individuals may enduringly possess beliefs, not all beliefs are “activated” across all situations. For instance, when deciding whether to make pasta or chicken, one does not call upon one’s entire knowledge base, but rather one brings to mind or “activates” knowledge that is relevant to the decision being made. Note that this is an automatic process – it occurs without awareness, intention, or control.

Clearly, individuals often differ from one another in the contents of their self-knowledge (e.g., in their attitudes about the gravity of certain crimes). What is less obvious, yet equally crucial to predicting patterns of behavior and decision-making, is the fact that individuals can also differ in their situational knowledge. For example, two jurors may happen to share the same belief that those who commit crimes should be punished, but could be expected to differ as to the kinds of crimes that warrant punishment. Because individuals differ in both the contents of self-knowledge and in their situational knowledge, it is necessary to design measures that assess individuals’ unique and potentially idiosyncratic beliefs. That is, one must take an idiographic approach if one’s goal is to predict patterns

86. See CAPRARA & CERVONE, supra note 63, at 117; Cervone et al., Theory, supra note 85, at 38.
87. See Cervone et al., Theory, supra note 85, at 37-38.
88. See Cervone, supra note 68, at 186.
89. See id.
90. See id at 183-86.
92. See id. at 134.
of response. To predict jurors’ decisions, one must not only assess selfknowledge, as is traditionally done, but also situational knowledge. Only then can we predict their dynamic appraisals.

Appraisals are the judgments individuals make that are shaped by the subset of beliefs that come to mind in a given situation. They represent the end-product of the process of knowledge activation. Individuals actively engage in the process of meaning construction when they relate what is happening in a given encounter to their stable self- and situationalknowledge. A decision to convict or acquit, then, is a type of appraisal that is informed by one’s unique beliefs about the world and the relevance of those beliefs to the particulars of a case. The KAPA model predicts that an individual will respond similarly across situations that activate the same subset of knowledge, such that if one knew the contents of a particular juror’s knowledge and the types of cases relevant to that knowledge, one could reliably predict a juror’s decision.

Support for our prediction has been found in Cervone’s research, where the goal was to predict individuals’ beliefs about their ability to successfully carry out a variety of everyday behaviors. Individuals’ selfknowledge (in this case, their unique personal strengths) influenced their appraisals of their ability to successfully carry out these behaviors, but only in situations that were relevant to those strengths. In other words, self-knowledge predicted appraisals of their behavior only in situations that activated that self-knowledge. Note that Cervone did not assess broad dispositional tendencies (i.e., “personal strength”), but rather each individual’s own unique strengths and the situations that called their personal strengths to mind. In other research, when the goal was to predict individuals’ ability to refrain from smoking, the same pattern of data emerged – individuals reported being most confident they could avoid smoking in situations that activated their unique personal strengths and least confident in those that did not activate their unique personal strengths.

Other research using the KAPA methodology demonstrated that idio
tographic assessments are more reliable predictors of situation-to-situation variations than are nomothetic assessments. In a study in which the goal was to explain variations in humorous behavior, individuals were asked to describe, in an open-ended format, their own unique reasons for using humor and to complete a nomothetic assessment of four researcher-

93. See Cervone, supra note 68, at 186-87.
94. See id. at 186-89.
95. See id. at 195.
96. See id. at 191-93.
97. See generally id.
98. See Cervone et al., Theory, supra note 85, at 46-47.
99. See Caldwell et al., supra note 72.
provided reasons for humor. In a second session, they were asked to rate the extent to which these reasons were relevant to a variety of social situations. There were considerable qualitative differences in the reasons individuals provided in the idiographic assessment. In addition, as the relevance of situations to their reasons for using humor increased, the self-reported likelihood of actually using humor increased, but only for the idiographically-assessed traits. We learn from this research that if one knows why someone uses humor and what situations are relevant or not to those reasons, one can reliably predict when that individual will use humor - but only when the reasons are idiographically assessed.

We argue that the principles and methodology of the KAPA model can and should be applied to the assessment of personality in legal decision-making research because rarely is the goal of this research anything but the prediction of individual juror’s legal decisions. The idiographic approach has the potential to not only improve the prediction of legal decisions, but also to offer a unique and novel perspective into legal decision-making that provides deeper insight into the specific beliefs and processes that underlie jurors’ legal decisions than that which is offered by a nomothetic approach. Averaging behavior (i.e., juror verdicts) and situations (i.e., case types) together – as is done using a nomothetic approach – blurs the “whole picture” and ignores the possibility that there might be instances in which individuals who share similar beliefs may differ in the situations in which they see these beliefs as relevant. Alternatively, there might be instances in which individuals have completely different beliefs and see them as relevant to the same situations. Studying personality using a nomothetic approach masks these potential findings, disguising the true nature of the role of personality in juror decision-making. To best predict juror decision-making, one should assess personality by relying upon the principles of the KAPA model and employing techniques similar to those employed by Cervone.

Using authoritarianism as an example of this methodology, the first step would be the assessment of individuals’ personal beliefs that fall under the rubric of authoritarianism. Specifically, one would assess participants’ beliefs regarding obedience to authority figures and social norms. To do this, one could ask participants to write essays about their typical behaviors.

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100. See id. at 1232.
101. See id.
102. See id. at 1233-38.
103. See id. at 1234.
105. See id.
106. See Cervone, supra note 68, at 186; Cervone, supra note 66, at 439-40.
reactions toward obedience to authority figures and social norms, and to choose the reaction tendency that best represents themselves. For instance, one could literally ask, “Of the reactions you just described, please identify those that are most central to you.” These beliefs would constitute their self-knowledge in the domain of authoritarianism (e.g., I believe all laws should be followed; I believe that laws should be questioned). Second, situational knowledge would be assessed by asking participants to indicate how relevant a series of criminal scenarios is to their central authoritarian beliefs (identified previously). In a third and final session, participants’ dynamic appraisals can be assessed by asking them to render a series of case judgments (e.g., guilt, defendant responsibility, sentence) for a series of criminal scenarios taken from the second session. According to the KAPA model, participants’ appraisals (i.e., their case judgments) should be predicted by their central authoritarian beliefs, but only when the criminal scenario is perceived as relevant to those central beliefs and not when the criminal scenario is not as relevant. That is, if “laws should be questioned” emerges as a central belief for both participant A and participant B, and the situation perceived to be relevant to this central belief is drug offenses for participant A but juvenile crime for participant B, then participant A’s case judgments would be best predicted by her central authoritarian beliefs for a case involving a drug offense while participant B’s case judgments would be best predicted by his central authoritarian beliefs for a case involving juvenile crime. Furthermore, the degree of relationship between one’s central authoritarian beliefs and case judgments should be much greater when employing this idiographic approach (i.e., matching self- with situational-knowledge) than by employing a nomothetic approach that fails to identify the potentially idiosyncratic circumstances in which one’s beliefs predict their case judgments.

VI. CONCLUSION

The lure of the nomothetic approach to personality in juror decision-making is quite understandable due to its simplicity and intuitive nature. Yet the search for a single personality measure that will be a strong and consistent predictor of juror behavior is much like the quest for the Holy Grail – a quest for something that most likely cannot be found and perhaps does not even exist. Like many of life’s problems, the mystery of juror behavior is not likely to be solved with a simple solution. Using a less simplistic and more complex approach provided by the idiographic approach might lead to better prediction of juror decision-making, which should justify the time and energy required of this approach. Adopting an

107. See generally Cervone, supra note 68.
idiographic approach to the study of personality will not only increase understanding of the complex role that personality plays in the prediction of juror judgments, but it will also likely improve one’s ability to predict juror behavior accurately.

Like psychologists, attorneys’ goals are to accurately predict behavior – not to assess jurors’ degree of a given personality factor relative to the general population. The utility of the idiographic approach to attorneys is clear: it has the potential to facilitate an attorney’s ability to detect juror bias during voir dire. By providing a more accurate prediction of actual behavior, the idiographic approach of assessing personality will improve the administration of justice by (a) more accurately identifying jurors who should be eliminated due to unfair bias, and (b) preventing the unfair elimination of jurors who actually are not biased against a client, but who might have otherwise been mistaken for having bias due to an attorney’s reliance on less accurate nomothetic assessments of personality. Thus, an idiographic approach to the study of personality in juror decision-making offers not only important theoretical advances in this field of research, but it also offers practical value to legal professionals regarding jury selection techniques and the identification of biased jurors, and subsequently improves the administration of justice overall.