

## **Are Celebrities Charged with Murder Likely to be Acquitted?**

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College students served as mock jurors in a murder trial involving a movie star celebrity in one condition, a televangelist celebrity in another, and an office worker in a third. All three defendants were described as good-looking and were given first-rate legal representation. The trial transcript was manipulated in order to follow the advice of a famous lawyer who claims to have a formula for successfully defending celebrity clients (the Dubin defense). Results showed that the movie star was marginally more likely to be convicted than the other two, when their categories were combined. Those who scored high on the *Celebrity Attitude Scale* (“celebrity worshippers”) were less likely to convict the movie star than those who scored low on the Scale. No support for the Dubin defense was found.

In 2007 Eric Dubin authored a book in which he presented “a formula that is virtually unbeatable” (p. 5) if you are a lawyer representing a celebrity accused of committing a serious crime. The formula for acquittal includes taking full advantage of the First Amendment – “have your defense lawyer utilize jury-tainting opportunities under the First Amendment before the trial even begins” (p. 5). In other words, get your version of the crime out to the public by secretly leaking information to the media. Secondly, as an additional part of that First Amendment abuse, make sure that the victim and any important witnesses for the victim get properly “bashed” in the media. This can be done by having your lawyer accuse the victim and anyone connected with the prosecution’s case of wrongdoing, real or imagined. Third, have your lawyer hire top experts to take advantage of the “CSI Effect.” Because of the popularity of television shows like Law And Order and CSI, juries often expect to be shown scientific evidence in court (Shelton, Kim, &

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*North American Journal of Psychology*, 2010, Vol. 12, No. 3, 625-636  
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Barak, 2006), and may be unduly impressed by it (Patry, Smith, & Stinson, 2008). Fourth, before and during the trial have your lawyer blame the police and anyone connected with the prosecution for trying to become famous by taking advantage of a celebrity. The fifth and last part of the formula is arguably the most interesting as it seemingly flies in the face of conventional wisdom and research about jury trial strategy. It is to exercise the defendant's right to "take" the Fifth Amendment. Research shows that when non-media defendants "take the Fifth" they are perceived as being more likely to be guilty (McCutcheon, 2004), probably because they are perceived as having something to hide. Dubin argues that when a celebrity is the defendant, juries will simply assume that his high-powered lawyers advised him not to take the stand. According to Dubin (2007), this strategy "forces a jury to convict a beloved celebrity without hearing an answer to the most important question: 'Did you do it (p. 5)?'" This strategy "allows a celebrity's idealized body of work to be the only insight a jury has (p. 6)."

We might be inclined to dismiss Dubin's seemingly dubious advice except for two facts of great importance: Eric Dubin is a lawyer who won a thirty-million-dollar verdict against actor Robert Blake on behalf of Bonnie Blake's children (she was allegedly murdered by Robert Blake, ironically famous for his portrayal of a detective on television). Secondly, some of his other pieces of strategy are supported by evidence from mock jury trials. For example, mock jury research shows that pre-trial publicity does affect jurors judgments (Kaplan, 1982; Ruva & McEvoy, 2008; Ruva, McEvoy, & Bryant, 2007; see Studebaker & Penrod, 2005, for a review), and that both positive and negative publicity have predictable effects in opposite directions (Ruva & McEvoy, 2008).

The present study was conducted partly for the purpose of testing what we will call "Dubin's defense hypothesis," these five intertwined bits of trial strategy that collectively are "virtually unbeatable" for winning an acquittal for a celebrity client. To test it we developed a trial transcript based on a real murder trial. In one version of the transcript the defendant is described as a famous movie star; in another he is described as a famous televangelist. In the third he is described as an office worker. Otherwise the transcripts are identical. One potential confound in Dubin's defense hypothesis is the wealth of the client. We see no reason why the first three parts of Dubin's defense hypothesis would not be equally successful with any wealthy client, even if the client is not a celebrity. For example, if you are wealthy enough, celebrity or not, you can have your lawyer present some scientific expert who is familiar enough with forensic evidence to raise some doubts in the minds of jurors. To control for this, we altered the original transcript further, such that our office worker, though unable to afford expensive legal

representation, was lucky enough to have access to an experienced trial lawyer who headed a legal aid task force willing to take the case for free because they believed he might be innocent.

There is a growing body of research on persons who are extremely fascinated with celebrities – persons who have been termed “celebrity worshippers.” The *Celebrity Attitude Scale* (CAS; McCutcheon, Lange & Houran, 2002) was developed in an effort to facilitate that line of research. This scale is comprised of three subscales, and has been shown to have very good reliability and validity across several studies (see McCutcheon, Maltby, Houran, & Ashe, 2004, for a review). To our knowledge, no one has ever conducted research in order to determine if attitudes about celebrities might impact a juror’s decision when a defendant is a celebrity. Since it has been shown that jurors’ pre-existing attitudes do impact verdicts (see Hans & Vidmar, 1982, for a review of scientific jury selection), we hypothesize that those who have favorable attitudes toward celebrities as measured by high CAS scores, will be more likely to vote “not guilty” (and have similar scores on other measures of culpability and sentencing) than those who have less favorable attitudes toward celebrities, but only when the defendant is a celebrity.

Previous research on celebrity-worshippers shows that favorite celebrities overwhelmingly tend to be entertainers or athletes, though this trend tends to weaken with age (McCutcheon et al., 2004). We wondered how a somewhat less popular celebrity, such as a televangelist, would fare with the Dubin defense, if charged with the same crime. Would jurors respond negatively to the hypocrisy of a religious icon possibly being guilty of a crime that clearly violates religious teaching, or would they refuse to believe that a famous religious person would commit such a heinous act?

## METHOD

### Participants

The total sample consisted of 199 jury-eligible college students (66 males & 133 females) from 4 public universities, one each in the southeastern, northeastern, mid-Atlantic, and northwestern U.S., ranging in age from 17-51 years ( $M = 22.02$ ;  $SD = 4.95$ ).

### Materials & Measures

All participants filled out a 23-item, five-choice, Likert-type scale called the *Celebrity Attitude Scale* (CAS; McCutcheon et al., 2004). Examples of items include “My friends and I like to discuss what my favorite celebrity has done,” “I am obsessed by details of my favorite celebrity’s life,” and “If I were lucky enough to meet my favorite

celebrity, and he/she asked me to do something illegal as a favor, I would probably do it.” This scale has been found to have good-to-excellent reliability and validity in a variety of studies reviewed in McCutcheon et al. (2004).

All participants were asked to read one of three versions of *California v. Smith*, a 12.5 page transcript based on a real trial (*NJ v. Bias*). It was chosen because the defendant was charged with murder of a spouse, a crime of passion that seems plausible for a celebrity (as opposed to petty theft, for example, since celebrities usually don’t need money). It was also chosen because it had been used in other studies, with participants divided more or less equally with respect to verdict (Hope, Memon & McGeorge, 2004; Pritchard & Keenan, 1999, 2002; Ruva & McEvoy, 2008; Ruva et al., 2007).

Mrs. Smith was found dead on the floor of the bedroom she shared with her husband. Mr. Smith phoned authorities right away. He claimed that she had been depressed and tried to commit suicide following a brief argument. When he saw what she was about to do, he grabbed for the gun, but it went off. Prosecution argued that the deceased was not depressed and that Mr. Smith murdered his wife. Evidence for and against the prosecution’s version of events was presented at trial.

We manipulated the original transcript in order to present Dubin’s defense. In the original transcript the defense team already had an expert witness, but the defendant took the stand on his own behalf, and was cross-examined by the prosecution. We took the information that came to light during that portion of the trial and presented it in the closing statements of the lead members of the prosecution and defense teams. For example, on the stand Mr. Smith claimed that he loved his wife, but during cross examination the prosecutor claimed that Mrs. Smith wanted a divorce. We took Mr. Smith off the stand, so-to-speak, by having his lawyer make the first claim for him during closing argument, and the prosecutor make the second claim in closing argument. We altered the closing arguments of both sides slightly (without deleting any important evidence) such that both arguments consisted of approximately 500 words.

Having an ambiguous case of this sort allows ample room for participants to be influenced by the manipulation of the independent variables. We changed the state to California and the county to Los Angeles because movie stars are likely to be living there. We changed the last name from “Bias” to “Smith” because Smith is a more generic name.

In order to test the Dubin hypothesis there was one paragraph of the trial transcript near the beginning of the trial that described the defendants. In all three we described Smith as being better looking than average. We felt this was necessary because we thought most participants

would assume that the movie star, and possibly the televangelist, were better looking than average, but they would not necessarily make that assumption about an office worker. Research on the impact of attractiveness shows that attractive defendants are usually treated leniently in court (see Dane & Wrightsman, 1982, for a review). In one version Smith was described as a competent office worker whose advice was often sought by others. We thought that it was necessary to describe him as competent because people may regard movie stars and televangelists as competent. At the very least they are able to remember lines and convincingly take on the roles of persons sometimes quite different from their real selves. We wanted to make sure that any differences in outcome among the three conditions were not due to perceived differences in competence. In the other versions Smith was described as either a movie star or a televangelist. In all three paragraphs Smith was described as being in his late thirties and having been married for about three years at the time of the death of Mrs. Smith.

### **Procedure**

All participants met in two sessions about one week apart. In the first session they were asked to fill out the 23-item version of the CAS, answer some demographic questions, then read excerpts from three “news items” and answer two easy, four-choice, multiple choice questions indicating that they did, in fact, read them. These news items, each about 500 to 550 words long, were presented in different orders to reduce the likelihood of a systematic order effect. Two of these news items and accompanying questions were meant to be distractors. One set constituted pre-trial publicity (PTP) about *California v. Smith*. The two questions following the pre-trial publicity about the case served as checks to determine that participants did read the PTP. Those who missed either of them were not permitted to participate in the second part of the study that convened about a week later. The total number of potential participants eliminated in this fashion was four. Participants were not told about what they would be asked to do in the second session. This was done so that participants would not make a special effort to remember the pre-trial publicity any more so than the information in the other two sets. This mimics the real world, where jury-eligible persons read or hear pre-trial publicity, never suspecting that they may some day be a juror for the case related to that publicity.

At the second session participants were randomly assigned to one of the three defendant occupation conditions (movie star, televangelist, or office worker). Immediately after reading *California v. Smith* participants responded to questions about the verdict they would give and the amount of confidence they would have in that verdict. Questions about the

influence of various parts of the Dubin defense strategy on their verdict were asked. Questions designed to serve as manipulation checks and to determine if participants were influenced by the PTP were also asked. All questions presented at session two can be viewed in their entirety in Appendix 1.

### Design

Questions one and two addressed the guilt of the defendant. Question one required a categorical answer (Guilty or Not Guilty), thus a 3 x 2 chi-square analysis was used. A 3 x 2 ANOVA for Question two was used because answers were continuous. A two-way MANOVA (3 defendant types x 2 levels of celebrity worshipper status, high & low using the overall median of the CAS as a dividing point) was computed, using responses from each of the questions in the Appendix, except questions 1 through 3, as dependent variables. The MANOVA was used to answer questions about the effectiveness of the Dubin defense.

### RESULTS

Results of the manipulation check (Question three in the Appendix) revealed that all participants except three were able to identify the occupation of the defendant. These three participants were discarded. Cronbach alpha for the CAS ( $M = 46.6$ ,  $SD = 15.48$ ) is .94.

Overall, 41% of our participants voted “not guilty” (46% for office worker, 48% for televangelist, 30% for movie star). The 3 x 2 chi square analysis of the categorical question (Number one) revealed that defendant category types were not significantly associated with the verdict  $\chi^2 (2) = 4.86$ ,  $p = .09$ . However, when we combined office worker and televangelist into one category (non-movie stars), there was a significant association between defendant category types and the verdict  $\chi^2 (1) = 4.79$ ,  $p < .05$  (Table 1). Participants were more likely to give a guilty verdict to a movie star than to a non-movie star defendant. A closer look at the guilty verdicts showed that the significant relationship was due largely to the 78% conviction rate of those who scored low on the CAS and were randomly assigned to the movie star condition. Low scorers on the CAS who were randomly assigned to either of the two non-movie star conditions had a 47% conviction rate. High scorers on the CAS were about the same across defendant categories (61% for the non-movie stars, 58% for the movie star).

The 3 x 2 ANOVA for Question two showed that there was a significant interaction effect between defendant types and celebrity worshipper status on confidence in guilt (Table 1 & Figure 1). High CAS participants were more likely than low CAS participants to be confident that the defendant was guilty when the defendant was either an office

worker or a TV evangelist. However, when the defendant was a movie star, the high CAS group was less confident in the guilt of the defendant than the low CAS group ( $F(2, 191)=6.47, p<.01$ , effect size: partial  $\eta^2=.06$ ).

The 3 x 2 MANOVA for Questions four, five, six, seven, eight, and nine (the questions related to Dubin’s trial strategy) showed that neither the main effects of defendant types (Wilks’ Lambda  $F(12, 362)=.79, p=.66$ ) and celebrity worshiper status (Wilks’ Lambda  $F(6, 181)=1.10, p=.37$ ) nor the interaction (Wilks’ Lambda  $F(12, 362)=.49, p=.92$ ) were statistically significant. We have reported the means and SDs for each of these questions in Table 2.

TABLE 1 Detailed Breakdown of Responses on Questions One and Two Relating to Guilt of the Defendant

Defendant category	Q. 1 Verdict	
	Not Guilty	Guilty
Office worker	30	36
Televangelist	31	34
Officeworker +Televangelist	61 (47%)	70 (53%)
Movie star	20 (30%)	46 (70%)
	Q. 2 Confident that he’s Guilty	
	Low CAS	Hi CAS
Office worker	3.03 (1.2)	3.88 (1.3)
Televangelist	3.33 (1.2)	3.76 (1.2)
Movie star	4.27 (1.0)	3.62 (1.4)

Note: Numbers for question 1 are numerical counts. Means and SDs are listed for question 2. Percentages refer to those who found defendants guilty or not. Thus 47% of those in the non-movie star conditions voted “not guilty.”

TABLE 2 Means and SDs for Questions Four Through Nine

Item Number	Mean	Standard Deviation	Median
q. 4 accident	3.86	1.08	4.0
q. 5 suicidal	3.74	1.11	4.0
q. 6 cops inept	2.97	1.33	3.0
q. 7 CSI effect	3.96	1.00	4.0
q. 8 5 <sup>th</sup> Amendment	3.77	1.12	4.0
q. 9 PTP influence	2.84	1.20	3.0

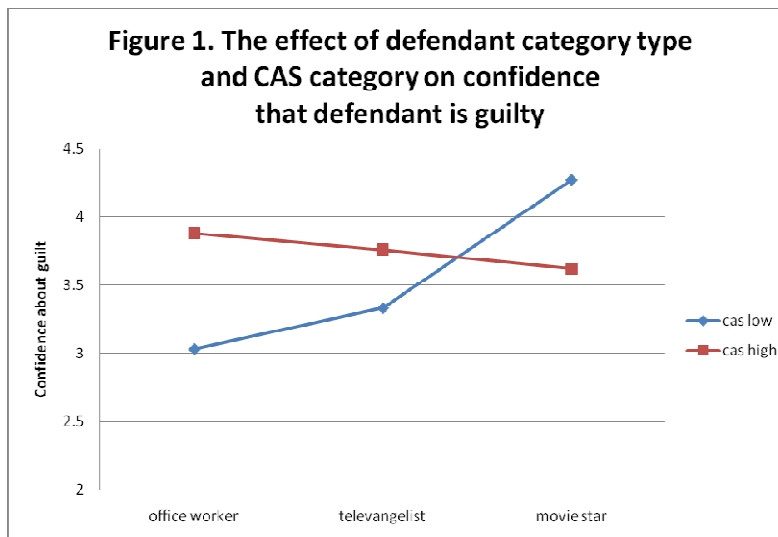
Note: Numbers listed are based on sample sizes of 199 for each question.

### DISCUSSION

We hypothesized that those who have favorable attitudes toward celebrities as measured by high CAS scores, would be more likely to

vote “not guilty” than those who have less favorable attitudes toward celebrities, but only when the defendant is a celebrity.

As expected, high scorers on the CAS (celebrity worshippers) were less likely to reach “guilty” verdicts when the defendant was a movie star. Furthermore, high CAS scorers were significantly less confident than low scorers that the movie star was guilty. These findings add to the growing body of literature suggesting the importance of attitudes toward celebrities.



We also tested “Dubin’s defense hypothesis,” five intertwined bits of trial strategy that collectively he labeled “virtually unbeatable” for winning an acquittal for a celebrity client.

We found little support for the Dubin defense. Our overall “not guilty” percentage was 41, as compared to the Hope et. al. (2004) “not guilty” percentage of 56, Pritchard and Keenan’s (1999, experiment 2) “not guilty” percentage of 54, and 74 (2002, pre-deliberation), Ruva and McEvoy’s (2008) 55%, and Ruva et al.’s (2007, pre-deliberation) 46%. None of the various components of that defense yielded any significant differences. We suggest that the Dubin defense “works,” if at all, because the defendants are rich, not because they are famous.

One of our results is somewhat surprising. We expected to find at least small differences in favor of our movie star defendant. With the wisdom of hindsight we offer the following by way of explanation. First, we leveled the playing field somewhat by describing all three of our



defendants as “better looking than average.” Previous research has shown that good looking persons sometimes get an unfair advantage in court (Dane & Wrightsman, 1982), so we removed that potential advantage for both of our celebrity defendants. Second, we altered the scenarios such that all three defendants had equal access to highly skilled, expensive legal talent, an advantage usually held by the wealthy.

Although our planned 3 by 2 defendant category types by verdict assessment Chi Square yielded no significant differences, a look at the data showed a weak trend toward conviction of the movie star. This prompted a reanalysis combining the televangelist and office worker categories, resulting in a statistically significant difference showing that the movie star was *more* likely to be convicted. Given that the initial analysis was nonsignificant, we do not wish to make too much of this finding. However, we wonder if the flowing tide of publicity following the trials of celebrities like Simpson, Blake, and Spector, combined (ironically) with that generated by Mr. Dubin and other legal experts, is beginning to ebb? Is public opinion moving in the opposite direction now, such that in the near future, movie star celebrities will be at a *disadvantage* if forced to defend themselves against serious charges?

All mock jury simulations have a trade-off noted by Bray and Kerr (1982), namely that realism is sacrificed for the sake of experimental control. Our experimental study is no different than hundreds of others in that regard. However, within the constraints of our study we did attempt some level of realism by not tipping off our participants to the real purpose of the first session, and by using a modified transcript from a real trial (see MacLin, Downs, MacLin, & Caspers, 2009, for a similar example) as the basis for our study of the Dubin defense. Although our jurors never deliberated with other mock jurors, we defend this choice by quoting a group of noted legal psychology researchers (Greene et al., 2002): “Initial verdict preferences among the jurors are highly predictive of the final jury verdict” (p. 11). For example, in one study in which participants rendered verdicts before and after mock jury deliberation, only 13 out of 69 “jurors” changed their initial verdicts after deliberation (Pritchard & Keenan, 2002). In another, no significant differences were found on verdicts or guilt ratings between participants who rendered verdicts with no deliberation and those who rendered verdicts after deliberation (Ruva et al., 2007).

Apparently televangelists are worshipful, but not necessarily worshipped by the mostly young group of public university students that we sampled. Perhaps a sample of highly religious persons might have scored differently. We suggest this as a direction for future research. We also suggest that a replication of the present study be conducted in a year

or two to determine if our main findings are part of an unfavorable trend directed against movie star celebrities, or merely an aberration.

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*Authors' Note:* The order of authors 2, 3, and 4 was determined at random. It should be noted that the contributions of each of these authors was vital to the success of the research project. This research was partially supported by an award to Maria Wong from the Office of Research at Idaho State University (LFRCO2).

**APPENDIX ONE**  
(Questions Asked After Reading Trial Transcript)

**One)** What is your verdict in this case? \_\_\_\_\_ Guilty \_\_\_\_\_ Not guilty

**Two)** Please indicate how confident you are about your verdict. Circle one.

I am pretty sure that he is not guilty	I'm not sure but I think he is not guilty	I am unsure whether he is guilty or not	I'm not sure, but I think he is guilty	I am pretty sure that he is guilty
1	2	3	4	5

**Three)** The defendant is:

- a. unemployed    b. a movie star    c. a televangelist    d. an office worker

**Four)** In making your decision about a verdict, how important was it to your decision that the defendant's lawyer described the incident as an accident in which the defendant was trying to prevent a suicide?

It was very unimportant	It was somewhat unimportant	I am unsure	It was somewhat important	It was very important
1	2	3	4	5

**Five)** In making your decision about a verdict, how important was it to your decision that the defendant's lawyer described the victim as being suicidal because she had been rejected by her lover?

It was very unimportant	It was somewhat unimportant	I am unsure	It was somewhat important	It was very important
1	2	3	4	5

**Six)** In making your decision about a verdict, how important was it to your decision that the defendant's lawyer described the police in L. A. County as trying to restore their image and make a name for themselves?

It was very unimportant	It was somewhat unimportant	I am unsure	It was somewhat important	It was very important
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1                      2                      3                      4                      5

**Seven)** In making your decision about a verdict, how important was it to your decision that the defendant's lawyer hired an expert witness (Medical Examiner, Dr. Roh) who offered an interpretation of events consistent with the defense argument that the shooting was not a murder?

It was very unimportant	It was somewhat unimportant	I am unsure	It was somewhat important	It was very important
1	2	3	4	5

**Eight)** In making your decision about a verdict, how important was it to your decision that the defendant did not testify on his own behalf?

It was very unimportant	It was somewhat unimportant	I am unsure	It was somewhat important	It was very important
1	2	3	4	5

**Nine)** In making your decision about a verdict, how important was it to your decision that the defendant's lawyer described the witnesses for the prosecution as "inept fools" who would make anyone look like a murderer for enough money?

It was very unimportant	It was somewhat unimportant	I am unsure	It was somewhat important	It was very important
1	2	3	4	5