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The Juror, the Citizen, and the Human Being: The Presumption of Innocence and the Burden of Judgment

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Abstract In this essay, I suggest that the criminal trial is not only about the guilt or innocence of the defendant, but also about the character and growth of the jurors and the communities they represent. In earlier work, I have considered the potential impact of law and politics on the character of citizens, and thus on the capacity of citizens to thrive—to live full and rich human lives. Regarding the jury, I have argued that aspects of criminal trial procedure work to fix in jurors a sense of agency in and responsibility for verdicts of conviction. Here, I draw on those ideas with respect to the presumption of innocence. I suggest that the presumption of innocence works not primarily as legal rule, but rather as a moral framing device—a sort of moral discomfort device—encouraging jurors to feel and bear the weight of what they do. I offer an account of character development in which virtues are conceived of not merely as modes of conduct developed through habituation and practice, but also as capacities and ways of being developed in part through understanding and experience. The criminal trial, framed by the presumption of innocence, can be an experience through which jurors and their communities, by learning what it means and feels like to carry a certain sort of moral weight, may engender a certain set of moral strengths—strengths valuable to them not just as jurors, but also as citizens, and as human beings.

Keywords Jury · Criminal trial · Character · Presumption of innocence · Thriving

Introduction

The criminal trial, including the presumption of innocence, is not just about the guilt or innocence of the defendant, but also about the character and growth of the jurors and the communities they represent. Some years ago, I suggested that various aspects of the

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criminal trial may serve to fix in jurors a sense of agency in and responsibility for verdicts of conviction (Clark 1999). Here, I consider the role played by the presumption of innocence in that process. More fundamentally, I turn to an essential question left unanswered by that earlier work. Why does it matter? Why should the criminal trial process be structured so as to fix responsibility in this way?

Athletes lift weights, run long distances, and the like. They task themselves in ways they hope will build the capacities they need. Life too calls for capacities. Both the public life of a citizen in a democratic community and the private life of a person who seeks to thrive are challenges better met by those who have developed certain strengths. One way to build those strengths may be to task ourselves with bearing certain weights. In this way, the burdens our law asks us to carry may help us build the capacities we need. Criminal trial jury service, framed by the presumption of innocence, is one such burden. Here, I consider how bearing this burden may help us build valuable public and private capacities.

At the risk of overworking the metaphor, consider that an athlete does not seek to avoid a workout by asking others to lift the weights for him. Nor, however, does he simply heave heavy things in random fashion. He positions himself so as to bear the weight in fruitful ways. He grasps and lifts the weights in ways that experience and training have shown will make him strong. The presumption of innocence may be understood as a way of framing the criminal trial process, which, along with other aspects of procedure, aims to insure that we do indeed bear the potentially fruitful burden of jury service.

If, as James Whitman has argued, the reasonable doubt standard was developed as a moral comfort device—intended to enable jurors to bear the weight of judgment in a world where that weight was felt too strongly (Whitman 2008); the related presumption of innocence may now serve a corollary need in our very different world. We might thus describe the presumption of innocence as a sort of moral discomfort device, which, if appropriately framed, may work to insure that jurors still feel the burden of judgment, and that they do so in ways that can help build the strengths we seek. In particular, the presumption of innocence, if properly understood, can encourage jurors to adopt a certain stance toward the defendant and toward their task—a stance which requires them to feel and carry, and thus potentially grow from, the weight of the responsibility they bear.

What strengths and capacities might we develop through bearing this weight? In this essay I highlight three: first, the ability and willingness to acknowledge agency in and take responsibility for one's actions, and in particular for exercises of power over others; second, the capacity to see others as fundamentally like ourselves, and in particular to see this kinship in those whose circumstances and conduct are very different from our own; and third, the closely-related ability to see things from the perspective of others—to not only understand what it is like to be in their shoes, but also to see what the world looks like though their eyes. And why are these particular strengths and capacities valuable to both public and private life? This aspect of the inquiry is of particular interest to me, because even if we conclude that the criminal trial is an imperfect or inadequate training device, it remains an illuminating context in which to think about what sorts of strengths and capacities we should strive to develop—as citizens and as human beings—and how public life might help us develop those traits.

The Burden of Judgment

Whitman argues persuasively that for much of the history of the criminal trial, a central problem was that jurors were afraid to convict in the face of even the slightest uncertainty.

Jurors feared eternal damnation if they were to make a misstep in the troubling and uncertain act of judging their fellow man. The reasonable doubt standard, therefore, was not merely a legal response to epistemological doubt, but also a moral and theological response to the fear accompanying that doubt. It was a way of reassuring jurors that conviction in the face of some inevitable residual uncertainty was not only pragmatically necessary and legally appropriate but also theologically safe. The reasonable doubt standard provided them with the moral comfort they required if they were to be asked to do their inherently discomforting work. Today, however, as Whitman puts it, "we live in an age of less moral discomfort." (Whitman 2008, 19) And, "[i]n many aspects of life this is a good and liberating thing: Humans who no longer quake and tremble are humans who live richer lives in many ways." (Whitman 2008, 7) But there is a cost; and it is not just that we get confused about how to explain and apply a reasonable doubt standard that was developed in a different world and for different ends. More deeply, "we have slowly been losing our capacity to gaze into our own breasts and ask ourselves hard questions about when and how we have the right to judge others." (Id.) I suggest, that the presumption of innocence, properly understood, may work to help us to regain this capacity.

The traditional American understanding of the presumption of innocence describes it as the source of the state's obligation to prove guilt beyond a reasonable doubt, understood in its modern sense as an evidentiary standard of factual proof. In one typical judicial formulation, "[t]he presumption of innocence … is a way of describing the prosecution's duty to produce evidence of guilt and to convince the jury beyond a reasonable doubt." (*State v. Gerald W.,* 103 Conn. App. 784, 789 (2007)). Jury instructions reflect this understanding. The New York pattern instruction, for example, puts it this way:

> …the defendant is presumed to be innocent. *As a result*, you must find the defendant not guilty, unless, on the evidence presented at this trial, you conclude that the People have proven the defendant guilty beyond a reasonable doubt. (emphasis added).

Similarly, the Massachusetts instruction provides:

> …the presumption of innocence is a rule of law that compels you to find the defendant not guilty unless and until the Commonwealth produces evidence, from whatever source, that proves that the defendant is guilty beyond a reasonable doubt.

But this understanding of the presumption of innocence is not quite right, or at least not quite adequate. True, the presumption of innocence is the source of the reasonable doubt standard, but not just as an evidentiary presumption that gives rise to a high standard of proof. Recall that the reasonable doubt standard evolved to make conviction easier, not harder. In this light, we can see that the presumption of innocence is the source of the reasonable doubt standard in a deeper sense. It is, most essentially, a way of framing and highlighting the very problem that the reasonable doubt standard was developed to help address. The presumption of innocence highlights and emphasizes the inherently problematic nature of judgment. It is not merely a way of saying that conviction ought to be difficult, or based on a high level of evidentiary certainty. More than that, the presumption of innocence is or can be a way of thinking and talking about *why* judgment is and should remain a difficult and troubling task.

Note first that the presumption of innocence is fundamentally different from other evidentiary presumptions that give rise to shifted or heightened burdens of proof. It is not merely a default rule; and, more to the point, it is not a statement of factual probability. We do not in fact believe that most defendants are innocent in the same way we believe that

most letters properly mailed are received or that most people not heard from for 7 years are probably dead. Instead, the presumption of innocence is a stance, a declared starting point. In this sense it is akin to the assertion in the Declaration of Independence that all men are created equal—not something we believe to be self evident as a factual matter, but rather something we *hold* to be so as the basis on which we will proceed. The Declaration's assertion of equality is a way of framing our relationships to one another, and of highlighting what we hold to be the appropriate basis for legitimate governance. Similarly, the presumption of innocence frames our relationship to those we judge, and illuminates what we see as the appropriate conditions for judgment.

And how so? As is often the case, much of what matters here can be pointed at if not fully captured by a deceptively simple cliché: there but for the grace of God go I. What we recognize, and what the presumption of innocence may help us keep in mind, is that we stand on shaky ground when we judge others, even where that judgment is necessary and justified and appropriate. When we look at a defendant, we know that if we or anyone had been born and bred as he has been, and had been faced with all and exactly what he has been faced with, we would have done as he did. We know this with absolute certainty, because had we been and been through all and exactly what he has been and been through, we would *be* him. In this sense, all defendants are, after a fashion, innocent, meaning here simply that we could, if we knew enough about them, trace their conduct to causes beyond their own agency. So how is it that we purport to judge—to assign responsibility? Now, none of this is in any way new to those who think about criminal law. The problem of the legitimate assignment of responsibility is central to criminal law theory and doctrine. And yet, as we know, we must yet do it. We can and must judge. But we can and should also keep in mind what it is we do. We should do it; but it should trouble us.

The presumption of innocence can do this—remind us that judgment is a problem and encourage us, in Whitman's phrase, to gaze into our own breast. The presumption of innocence, working with other aspects of criminal trial procedure, can help us to feel the burden of judgment; and it can do so in at least three interconnected ways. It tasks us to acknowledge our agency in and responsibility for what we do; it emphasizes our fundamental kinship with those we would convict; and it calls upon us to see things through the eyes of those we judge.

Before turning to why this may be a useful thing, let me clarify that I am not making a philosophical argument about the necessary preconditions to legitimate judgment. I can of course imagine how such an argument might proceed. One might frame and defend a philosophical corollary to the biblical injunction, "Judge not, that you be not judged" (Matthew 7, 1), along the lines of: "judge not, unless you are willing to be judged." Perhaps, if we must judge, a normative precondition is that we take responsibility for those judgments. But that is not my argument. Rather, my suggestion here is that taking responsibility for our judgments in particular ways—ways highlighted by the presumption of innocence—is good for us. Mine is a consequentialist rather than deontological claim, albeit looking to the consequences for those who judge, rather than those judged, and looking to the consequences for our thriving and character, rather than deterrence or efficiency or the sorts of things more commonly emphasized in legal and policy scholarship.

Character and Capacities

Character is constructed in part through conduct. If we want to be brave or generous, for example, we cannot simply study courage or charity; we need to behave bravely or

generously. Nor is this merely a matter of developing habits of behaving in certain ways, as traditional Aristotelian thinking tends to emphasize. More fundamentally, it is a process learning to see oneself in particular ways—of internalizing traits as aspects of identity. When we face a fear, or behave charitably, we learn what it feels like to be brave or generous, and can come to see ourselves as carrying that capacity and embodying that trait. And, if we like what we feel and see—like and admire ourselves in that light—we are further inclined and able to act in those ways.

This aspect of my starting point bears emphasizing. Virtues, I suggest, are not merely habitual ways of behaving, as Aristotle can be read to suggest. They are, more essentially, ways of being—and ways of seeing oneself. The athletic training metaphor may obscure this critical distinction; so consider an alternative. Imagine if we were to consider it a virtue to wear a certain sort of clothing. Now, both Aristotle and I would suggest that you not just study the clothes you hope to wear, but that you begin actually wearing them. But whereas the traditional view would suggest that by doing so you might gradually develop the habit of dressing in that way, my point is different. I suggest that by wearing those clothes, on even a few occasions, you may come to like the way they look and feel on you; and will thus be more inclined to wear them. It is not merely habituation, but also experience and identity. Developing character through conduct is not just about getting used to acting in certain ways, such that we are more likely to do so as a sort of conditioned response. It is also about learning to act in certain ways, such that we are more able and eager to do so—able because we know what it feels like, eager because we like how it feels.

If, therefore, we value and hope to engender certain traits or capacities, we need to find and seize even occasional opportunities to act in ways that will allow us to practice and develop and embody those ways of being. As to some traits, life offers ample such opportunities. We have no shortage of occasions for charity, for example. But we are not as readily supplied with flora in which to try on and develop every virtue. Courage is an example. We can of course manufacture opportunities to be brave—as by engaging in dangerous sports or picking fights; but given the way in which courage slides so easily into recklessness, it is not at all easy to find ways of developing the former without courting the latter. For this reason we should and do cherish legitimate chances to be brave; so too, perhaps, with the traits potentially engendered by the criminal trial.

In that light, I believe we can identify three capacities potentially engendered through criminal trial jury service when criminal trials are framed by the presumption of innocence. Each of these are perhaps best understood as habits of mind—ways of thinking about oneself and the world. And each is arguably important both to pubic and private life—both to the citizen and the human being.

First, there is the habit of taking responsibility for one's actions, and in particular for exercises of power. We might describe this as a form of courage, or even integrity; but perhaps a more accurate if more awkward term would be something like internal responsibility-taking. I use the term "internal" to distinguish this form of responsibility-taking from external accountability. It is often a good and necessary thing to require those who exercise power to be held accountable by and to others; but what I mean here is the habit and capacity to be accountable to ourselves and to recognize our own agency in what we do. It is the ability to see ourselves in our conduct, and not distance ourselves from our actions.

This form of responsibility-taking is a valuable public virtue first of all because we are more likely to exercise power poorly when not forced to acknowledge that we are exercising power at all—when we allow ourselves to see ourselves as cogs in a machine or as just following instructions. Internal responsibility-taking—the capacity to look ourselves in

the eye and face what it is we do—is thus a particularly crucial *democratic* civic virtue, because where power is widely dispersed, there is a risk that the sense of responsibility will be lost. I have argued elsewhere, for example, that lawmaking by initiative is potentially problematic in this way (Clark 2004, 2007). Anonymous plebiscite voting allows us to exercise power with a sense of entitlement; but without facing those over whom we exercise that power or acknowledging our own agency in that process. Perhaps, however, if we are to tell our gay and lesbian neighbors they may not marry, to take one form of power sometimes exercised by initiative, we ought to be willing to look them in the eye. At the very least, we should look ourselves in the eye, and not pretend that we are simply expressing preferences, when we are also exercising power—albeit ignobly from behind a curtain.

The initiative is the extreme example of the dispersion of power, but the difficulty is intrinsic to democratic governance. We are more likely to abuse power when we do not acknowledge that we are exercising it—more likely to treat people irresponsibly when we do not feel responsible. And the more broadly power is dispersed, the harder it is for actors to feel or others to fix responsibility for exercises of that power. Given the obstacles to external accountability where power is widely dispersed and exercised with a sense of entitlement, democratic societies ought particularly to value and seek to engender the trait of internal responsibility-taking which would encourage us to acknowledge our agency in what we do.

But the habit of exercising power without feeling its weight is not only bad for those over whom we exercise that power; it is also bad for us. Recall our Aristotelian starting point, which is that we learn and grow largely through action—that character is constructed in part through conduct. This applies not just to the particular virtues highlighted in this essay, but to any trait to which we would aspire or which we would eschew. But we are less likely to learn and grow through what we do if we do not recognize and acknowledge what we are doing. Internal responsibility-taking is a key human trait, as well as a key public trait, because we can see and understand ourselves better if we learn to look honestly at, rather than hide from, our own conduct.

The criminal trial forces jurors to look at what they do—to feel and accept internal responsibility for their decisions, and in particular for convictions, in a number of ways. For example criminal verdicts require unanimity, which prevents any juror from taking solace in the possibility that the defendant would have been convicted even if he or she had not voted to convict. Trials are generally staged such that the jurors can see the defendant, and be seen by him. Directed verdicts against criminal defendants are prohibited, thus insuring that the jurors know that, if they choose, they can simply acquit, which highlights the choice they make when they convict—and emphasizes their agency in the conviction. These and other aspects of the criminal trial process encourage jurors to recognize that when they convict, they are not simply deciding something; they are doing something. In these ways, jury service contrasts sharply with initiative voting. Jurors are made to realize that they are not merely deciding facts about the defendant; they are determining the fate of the defendant.

But this alone is not enough. If this conduct is to build capacities, jurors must not only know that they do a thing; they must also know and recognize what it is they do. They must feel the burden they are asked to bear. An athlete will not build strength by tossing up an un-weighted bar. A cyclist will not build power by coasting downhill. The presumption of innocence is or can be the weight on the bar—the hill up which we make ourselves ride. Unless jurors first recognize that a conviction is an exercise of power, rather than merely a decision, they can hardly be encouraged to feel responsibility for that exercise of power.

And, more to the point, unless jurors are encouraged to recognize the inherently troubling nature of judgment, encouraging them to feel responsibility for judgment can hardly build in them the capacity and habit of feeling responsibility for the potentially troubling things they do. The presumption of innocence, understood and explained as sort of moral discomfort device, can be a way of making sure that jurors know what it is they do.

A second valuable trait potentially engendered by criminal trial jury service—if properly framed—is the habit of seeing others as fundamentally like ourselves, and in particular the capacity to see this kinship in those whose circumstances and conduct are very different from ours and might at first appear alien or even inexplicable. Seeing this kinship prevents us from distancing ourselves from each other. For this trait we can perhaps use the term empathy, albeit without the connotations that come from confusing empathy with sympathy, and with an emphasis on the capacity to see shared humanity, rather than to share or intuit emotions. It is the ability to recognize the very thing that makes judgment potentially problematic—that there but for the grace of God go I.

This is a valuable public trait because we are more likely not only to misjudge but also mistreat others when we allow ourselves to see them as fundamentally alien. Sociologists use the somewhat awkward term "otherization" to describe the way in which mistreatment is facilitated by the practice of seeing those we treat poorly as fundamentally different from ourselves. In its extreme manifestations, this can give rise to wartime atrocities. In its more ordinary guises, it can lead to disrespect for rights or disregard for difficulties. The trait I mean to highlight, whether we call it a form of empathy or a form of understanding, is the opposite of otherization, and offers some hope to produce opposite results. This civic virtue is particularly valuable in a democracy. Where citizens exercise power over one another, they are more likely to do so thoughtfully and well when they understand and can relate to one another.

And this trait too is as valuable to the human being as to the citizen, because we can learn more about ourselves, and thus better grow and thrive, if we can supplement our own necessarily limited experiences with the much broader range of vicarious experiences made possible when we can see ourselves in the shoes of others. Recall that the particular (and perhaps not quite Aristotelian) idea I have tried to develop in this essay is that conduct builds character not just through habituation, but more essentially through experience, which allows us to see what virtues look like on us—to learn what it feels like to embody certain traits. In this light, the form of cognitive empathy described here is crucial, because it dramatically widens the range of traits we can vicariously try on, and thus either aspire to or eschew.

The presumption of innocence as a defining feature of the criminal trial can be understood to speak to this trait directly. Indeed, recognizing the kinship between ourselves and those we judge can help us think more deeply about the presumption of innocence itself. What it can mean, in this light, is that we should see those we judge as being *as innocent as ourselves*—not in the sense that they did or did not commit the crime with which they are charged, but rather that they are fundamentally like us, and that therefore we too might have come to do as they have done. Perhaps they should be held accountable and punished—judged—and, if so, it is our job as jurors to do so; but recognizing our kinship helps insure that that is not a weight lightly borne.

A third and closely related trait potentially nurtured through criminal trial jury service framed by the presumption of innocence is the ability to see things from the perspective of others. It is a great misfortune that we lack a name for this essential human capacity. For the trait described above—the ability to recognize kinship and thus vicariously share experience—we can borrow the term empathy. But I mean something different here.

The overlapping but distinct capacity I mean to highlight here is not just the ability to understand what it is like to be in the shoes of another, but also the further ability to see what the world looks like though the eyes of another.

This capacity is crucial to public life, and in particular to democratic public life, which depends so heavily on communication, deliberation, and persuasion. Politicians, lawyers, negotiators, preachers, even salesmen, all know that the ability to see things as others see them is vital to persuasion. In order to reach someone, you must make or find space in their worldview; and doing that requires that you see what their world looks like. Perhaps we often fail to act on this knowledge—choosing instead to ignore the perspectives of those we hope to reach, and relying instead on strident repetition of the arguments that we find most appealing. We are not always willing or able to see the world through the eyes of those we hope to come to terms with. But the cost of that failure to see is a failure to persuade, and more deeply an inability to truly communicate. One need not look far to see evidence in public life that we could benefit from, and thus should seek to engender, this civic virtue—this capacity to see the world as others see it.

And this capacity is perhaps even more valuable to the human being than to the citizen. It is the ability to learn and benefit not just from vicarious experience, but also through vicarious sight. Being able to see the world from the perspective of others allows us to better see it—and thus better make sense of it and appreciate its beauty. As an art lover moves around a sculpture, looking at it from various angles so as to see it better, we better see and understand the texture and richness of our world when we can see it from a range of perspectives. I do not purport to know what makes for a rich and full life; but if I were to make a list, I would put the capacity to see and make sense of and appreciate the beauty of our world near the top of the list—above, certainly, the wealth and safety and other such matters so often made the focus of conversations about law and public policy. And if so—if, as Frost's farmer-turned-amateur-astronomer puts it, "the best thing that we're put here for's to see" (Frost, *The Star-Splitter*)—the capacity to see more richly and fully is perhaps among the best we can nurture.

The criminal trial can potentially help us develop this trait in the same way it can help us develop the capacity to feel for others. If and once we are brought to see our kinship with the defendant, we are compelled to ask ourselves—how could he or she do this thing? How could someone who is like me have come to do something I like to think I would not do—even if I found myself in similar circumstances? And the answer follows: he or she must see a different world. Bad conduct may seem incomprehensible, or comprehensible only on the assumption that the actor is just bad. But the capacity described above—the ability to recognize our kinship with those we judge—makes that oversimplified if reassuring assumption harder to sustain. We are forced back to the realization that someone like us has done this thing. And thus we are forced to recognize that there is some way of seeing the world in which his or her conduct makes sense—not right, or even pardonable, necessarily, but comprehensible. And in this way the capacity for cognitive empathy calls upon and enables the deeper capacity to think about and see how the world looks to others.

It may be objected that the job of the jury is to decide the facts, not judge the moral desert of the defendant in the way this discussion might seem to suggest. But I am not suggesting that juries should do anything other than decide the facts of the case. Setting aside debates about the propriety or legal status of nullification under extreme circumstances, grant that where the facts in light of the law warrant conviction, the jury should convict. I am simply saying that they should recognize and feel the weight of what they do—not as a deontological precondition to legitimate judgment, but rather in order that they, and we, may grow and thrive in the ways I have tried to describe. And the

presumption of innocence can help make sure they do that—see, and acknowledge, and thus potentially grow from, the significance of what they do.

Nor would it be necessary, on this account, to make any major alterations in criminal trial procedure in order for the presumption of innocence to help the trial do this work. Any mention of the presumption of innocence can potentially suffice. If it were desired to emphasize the aspects I have highlighted, a court would simply need to add a phrase to the traditional instruction, along these lines: "the presumption of innocence is a central principle which reminds you of the weight and importance of the responsibility you bear." No lecture on character or virtue would be necessary or appropriate. Just see that they bear the weight. The strength will come.

It may seem that criminal trial jury service is too rare to provide much opportunity for character development, given that few people are likely to serve on a jury in a criminal case more than a few times, if that. How much difference can that really make? After all, one or two trips to the gym will not make one strong. But this misses the potential impact of salient and highly symbolic opportunities. One significant act of charity or selflessness can do a great deal to help a person understand what it means, and how it feels, to be generous. One chance to face fear may go a long way towards helping a man to understand himself as brave—towards helping him see how he looks in that light. And even a rare opportunity to take responsibility for one part of the difficult work we must do—to bear the weight of judgment on behalf of one's community—may help us learn what that feels like, and what it means.

More to the point, jurors act on behalf of and under the gaze of the community. What they do and how they do it are recognized as embodying and manifesting our shared way of handling the question of judging and assigning responsibility. Having someone lift weights for us will never make us strong; but having someone act in certain ways on our behalf and in our name can help us see ourselves in those ways, if we acknowledge our own indirect participation in and thus responsibility for that conduct. The presumption of innocence, along with reasonable doubt standard, and the idea of trial by jury of which those are central parts, are in the public conception essential aspects of American law. No one knows exactly what they mean, but they know they matter. As Scott Sundby has noted, the presumption of innocence in particular "has become so central to the popular view of the criminal justice system, [that] it has taken on 'some of the characteristics of superstition.'" (Sundby 1989, 457, quoting Allen 1931, 255). Superstition, perhaps, or rather mythology. It is part of our shared sense of identity. How we judge is recognized as saying something important about who we are. As it does.

References

Allen, C.K. (1931) Legal Duties, and Other Essays in Jurisprudence. Oxford: Clarendon. 255.
Clark, Sherman J, (2007). Ennobling Direct Democracy, 78 U. Col. L. Rev. 1341.
Clark, Sherman J. (2004). The Character of Direct Democracy, 13 J. of Cont. Legal Issues 341.
Clark, Sherman J. (1999). The Courage of Our Convictions, 97 Mich. L. Rev. 2381.
Frost, Robert (1923). The Star-Splitter, in Lathem, E.C., Ed., The Poetry of Robert Frost (1969), Henry Holt and Company, N.Y.
Massachusetts Pattern Jury Instructions.
New King James Version Bible.
New York Pattern Jury Instructions.
State v. Gerald W., 103 Conn. App. 784, 789 (2007).
Sundby, Scott E. (1989). The Reasonable Doubt Rule and the Meaning of Innocence, 40 Hastings L.J. 457.
Whitman, James Q. (2008). The Origins of Reasonable Doubt; The Theological Roots of The Criminal Trial, Yale Univ. Press.