Pretty Probationers: The Relationship Between Physical Attractiveness and Sentencing Outcomes

Thesis

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By

Alexandria Fraga, B.A.

Graduate Program in Sociology

The Ohio State University

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Thesis Committee:

Ryan King, Advisor

Paul Bellair

Dana Haynie
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Abstract

Does the criminal justice system privilege physically attractive defendants? To answer this question, the present study uses data on 994 male drug, property, and violent offenders from Minneapolis-St. Paul, Minnesota, to examine the relationship between physical attractiveness and sentencing outcomes. The results show that physical attractiveness is not related to sentencing outcomes among habitual offenders and offenders who have committed relatively serious crimes. However, among drug offenders and those without a prior criminal record, physically attractive criminal defendants are less likely to be sentenced to prison than their less physically attractive counterparts. More specifically, physical attractiveness was significantly associated with whether or not these offenders were given a non-imprisonment term versus a prison sentence. Among offenders receiving a sentence, physical attractiveness was not related to the length of the sentence. The results underscore the importance of examining the role of extra-legal factors for both sentence type and sentence length decisions.
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Vita

May 2013……………………………………...B.A. Sociology and Criminology,
The Ohio State University

August 2013-August 2014……………….Graduate Student Fellow,
The Ohio State University

August 2014-present……………………..Graduate Research Assistant,
Department of Sociology,
The Ohio State University

Major Field: Sociology
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Introduction

Are physically attractive defendants treated more leniently by the criminal justice system? Research shows that first impressions based on physical appearance are consequential for a number of social judgments about an individual. Those perceived as more physically attractive are judged to be more trustworthy, happier, more intelligent, and better adjusted than their less physically attractive counterparts (Dion et al. 1972, Goldman and Lewis 1977, Wilson and Eckel 2006). In professional settings, physically attractive political candidates are more likely to win elections than their less physically attractive competitors (Sigelman et al. 1987, Todorov et al. 2005), and physically attractive people overall are more likely to be offered employment and receive higher pay (Harper 2000, Bóo et al. 2013). Moreover, teachers evaluate physically attractive individuals more favorably, and physically attractive individuals are, more generally, perceived as belonging to a more socially desirable group (Ritts et al. 1992). This phenomenon is often referred to as “what is beautiful is good,” or the physical attraction bias (Dion et al. 1972). This growing body of evidence on the benefits of attractiveness is leading social science research to consider physical attractiveness as another marker of stratification in society (Hakim 2010). However, while research has documented several biases favoring physically attractive individuals, it remains unclear whether the same benefits of physical attractiveness result in similar advantages for criminal defendants in U.S. courtrooms.
The current study examines whether physical attractiveness continues to benefit individuals in a specific context, the criminal justice system, where laws explicitly mandate against such biases. The United States legal system has laws in place in an effort to ensure that “justice is blind,” which should act as a buffer against the influence of physical attractiveness in the courtroom. Additionally, sentencing guidelines that are designed to reduce biases in sentencing and establish limitations on judicial and prosecutorial discretion should limit the potential for biases that favor attractive people to sway judicial decisions. Sociological and criminological research suggests that the stigma of having a felony record effectively marks ex-inmates as socially undesirable (Pager 2003, Jacobs 2005), which would presumably overwhelm any potential influence of physical attractiveness on legal judgment. In light of the social stigma associated with being a felon – and the legal barriers in place that should, in theory, limit the influence of physical attractiveness – the present study examines whether benefits associated with physical attractiveness are extended to those who have been found guilty of a criminal offense. Are physically attractive criminal defendants more or less likely to be sentenced to prison compared to their less attractive counterparts? And if sentenced to prison, do they receive shorter or longer sentences?

Past attempts to address these questions, primarily in psychology studies employing “mock juries,” yield mixed results. Many studies find that physically attractive defendants are less likely to be found guilty, and those who are convicted...
receive shorter sentences (Efran 1974, Leventhal and Krate 1977, Darby and Jeffers 1988, Desantis and Kayson 1997). Other work finds that observations of the attraction-leniency effect are limited to “victimless” or less severe offenses (Downs and Lyons 1991, Mazzella & Feingold 1994, Beckham et al. 2007). Still others find that, after applying more realistic jury simulations or controlling for seriousness of crime and race, the effects of physical attractiveness on legal leniency disappear altogether (Weiten 1994, Kutys 2013). Some research even finds a reverse effect, in which physically attractive defendants receive harsher punishment than less attractive defendants (Escott 2005, Patry 2008).

How could physical attractiveness have such variable and seemingly paradoxical effects on criminal court outcomes? For one, critics have questioned the generalizability of mock juror methodology, citing a lack of internal and external validity, and have called for corroborative field data (Weiten and Diamond 1979, Vidmar 2008, Weiner et al. 2011). Additionally, in modern U.S. courtrooms, the vast majority of defendants are not judged by a jury of their peers, but instead are summarily sentenced by the presiding judge, often negotiating concessions between a prosecutor and a defense attorney to strike a plea deal. These observations call into question the ecological validity of mock jury approach, as it may not accurately represent actual judicial decision-making. This would therefore undermine the practical utility of this approach for social scientists across multiple disciplines (Weiten and Diamond 1979, Vidmar 2008).
Despite criticism of lab-based sentencing studies employing mock juries to study the attraction-leniency effect in sentencing, the potential consequences associated with differences in defendant physical attractiveness affecting criminal court judgments has not been explored in actual defendants’ sentencing outcomes, with critical additional attention to potential crime type variations. Furthermore, extra-legal factors may be most likely to influence outcomes at the earlier stages of contact with the criminal justice system (i.e. the decision to grant probation versus a prison/jail sentence) than when determining sentence length due to the filtering out of individuals at each stage of contact with the criminal justice system (Nagel and Neef 1976).

Past research employing mock jurors often provides participants with a short vignette about the supposed defendant. These vignettes typically exclude potentially critical information that would otherwise be considered when determining the defendant’s sentence, including the defendant’s prior felony and misdemeanor sentences, measures of serious juvenile records, and whether the offender was under supervision when the offense occurred. These factors are particularly relevant legal factors in determining sentence terms and must be taken into consideration when sentencing (Engen and Gainey 2000).

Extra-legal factors, such as physical attractiveness, may have meaningful consequences for an offender’s immediate future. Whether they are incarcerated or not – and if so, for how long – can result in a series of downstream consequences, such as
possession of a felony record, voter disenfranchisement, limited labor market outcomes, loss of wages, and housing restrictions (Uggen and Manza 2002, Western 2002, Pager 2003). To address these questions, the current study uses data from more than 900 criminal defendants to examine whether physical attractiveness influences sentence length or sentence terms designated to criminal defendants. In what follows, I review the broader literature on the benefits to being physically attractive. Next, I review literature on facial appearance and sentencing and then focus exclusively on studies testing the effects of attractiveness in criminal contexts. Last, I review criticisms of mock jury studies, and in light of the potential limitations to laboratory leniency research, I present the methodology used in the current study to overcome those limitations.

**Attractiveness**

It is commonly said that “beauty is in the eye of the beholder,” although perceptions of beauty are remarkably consistent across genders, races, and cultures (Eisenthal et al. 2006). The way in which others treat a person based purely on looks can have a considerable influence on their lived experiences. Psychologists have documented that those who are physically attractive are seen to possess a host of positive attributes, such as trustworthiness, intelligence, happiness, and success (Dion et al. 1972, Goldman and Lewis 1977, Wilson and Eckel 2006). This phenomenon is commonly referred to as “what is beautiful is good,” or the physical attractiveness bias (Dion, et al. 1972). In a similar vein, sociologists refer to the benefits associated with physical attractiveness as a
form of capital, sometimes referred to as sexual or erotic capital (Robert 2004, Hakim 2011). Hakim (2010) argues that in modern societies, erotic capital shapes individuals lived experiences similarly to social, economic, and cultural capital.

Benefits accrued by possessing physically attractive features are documented as beginning as early as the first several weeks of life. In a 1984 study, Stephan and Langlois find, across racial and ethnic groups, that infants perceived as physically attractive are seen to be more intelligent, likeable, and to be "good" babies compared to their less physically attractive counterparts. Additionally, adults and parents give physically attractive children more attention than physically unattractive children (Langlois et al. 1995). As children progress through life and begin formal education, the effects of physical attractiveness persist. Studies of children in primary education find that physically attractive students are seen by teachers to possess positive characteristics such as intellectual ability, academic potential, and a host of social skills (Ritts et al. 1992, Clifford and Walster 1973, Parks and Kennedy 2007).

Advantages conferred to physically attractive students throughout their educational development can continue into adulthood and in the workplace. Physically attractive individuals are more likely to be hired, are perceived more favorably by potential employers, are seen to be more competent, and are more likely to receive promotions and higher wages (Hamermesh and Biddle 1993, Harper 2000, Bőo et al. 2013). These favorable perceptions earn above-average attractive people about $230,000
more over the life course than physical average looking people (Hamermesh 2013). One study found that companies with physically attractive CEOs earned significantly higher stock returns than those with comparably less attractive CEOs (Rule and Ambady 2008).

Given that physically attractive people are seen as more trustworthy and reliable, it is not surprising to find that physical attractiveness even influences electoral outcomes (Spezio 2012, Todorov et al. 2005). In a 1974 study, Efran and Patterson find that attractive candidates secured 32 percent of votes in their district, while less physically attractive candidates received 11 percent of votes. In fact, in a televised debate between Nixon and John F. Kennedy in 1960, appearance may have influenced the public’s perceptions on who won the debate. Nixon, having just returned from the hospital, appeared worn and tired, while John F. Kennedy appeared healthy and well rested (Little et al. 2007). At the time, the CBS president stated, “Kennedy was bronzed beautifully…Nixon looked like death.” The majority of those who watched the debate on television felt that Kennedy won. Interestingly, those who listened on the radio, without actually seeing the two candidates, felt that Nixon actually had a superior performance (Druckman 2003).

The benefits accrued to the physically attractive may even lead to reduced criminal engagement (Cavior and Howard, 1973, Cacior, Hayes, and Cavior 1974). Mocan and Erdral (2010) found that physically attractive individuals were less likely to commit crime than those considered less physically attractive. Concerned that physical
attractiveness may be acting as a proxy for socio-economic status, Mocan and Erdral included a series of individual and family variables, including measures of poverty, parental incarceration, and birth weight in their predictive model. Even with these controls, the authors find significant effects of physical attractiveness on risk of crime. Instead of physical attractiveness acting as a proxy for socio-economic status, the authors argue that physically unattractive individuals face a penalty in labor markets, and thus have more incentive to engage in criminal behavior. Furthermore, those perceived as physically unattractive were believed to have reduced human capital accumulation, which then may increase the risk for engaging in crime 7-8 years later (Mocan and Erdral 2010).

Facial features and perceptions of criminality

“The belief that a propensity to commit crime in a person’s face dates back at least as far as ancient Greece and to far eastern civilizations of the same period. Attempts to provide a scientific rationalization for this idea began in the 14th century, mixing popular lore and learned knowledge. Face and skulls were subject to intensive investigation in order to reveal indicators of psychological dispositions.” (Dumas and Testé 2006)

Physiognomy—the belief that a person’s facial features offer information about their character and personality—was first documented 4,000 years ago in ancient Egypt. In the late 1800s, the founding father of criminal anthropology, Lombroso, was convinced that individuals’ physical features were linked to their propensity to commit crime (Lombroso 1911). By today’s standards, physiognomy seems absurd to many and is widely derided as an inaccurate indicator of criminality. Despite physiognomy being a poor indicator of criminality, 90 percent of people nonetheless report that they believe
physical features share information about individual’s behaviors (Zebrowitz 1996). Although individuals’ physical features may not predict future criminal behavior, because of widely held perceptions that behavior can be predicted based off of physical features, people are routinely assessed based on their physical appearance (Shoemaker et al. 1973, Zebrowitz 1996).

Dangerous decisions theory (DDT) is a framework that asserts that a defendant’s untrustworthiness or dangerousness is assessed almost immediately upon first seeing a defendant’s face (Willis and Todorov 2006, Porter and Brinne 2009). Those perceived as untrustworthy or dangerous in initial judgments are more likely to be found guilty by a judge or jury and to be given longer sentences (Porter and Brinne 2009, Porter et al. 2010). Furthermore, “baby-faced” individuals, or those with small noses, large eyes, a small chin, and a round face, are perceived to be weaker, more submissive, and more affectionate than mature-faced individuals (Zebrowitz and Montepare 2008). These positive social characteristics associated with having a baby-face reduce a defendant’s likelihood of being found guilty and reduce sentence length relative to those with more “matured-face” faces (Berry and Zebrowitz-McArthur 1988).

In a similar vein, focal concerns theory (Steffensmeier et al. 1998), as applied to sentencing decisions, posits that judicial decisions are made after weighing concerns of deterrence, public safety, social costs and the judges’ perceptions of the defendant’s blameworthiness. Albonetti (1991) and Steffensmeier et al. (1993) argue that because
judges and prosecutors do not have perfect information about a particular defendant’s blameworthiness or culpability, these judges and prosecutors may rely on stereotypes and perceptions of defendants that open the door for extra-legal factors such as race, sex, and age to influence how blameworthy a defendant is perceived to be.

Both DDT and focal concerns draw our attention to the influence of perceptions of physical features or behavioral traits when considering sentencing outcomes. This next section focuses exclusively on studies examining the influence of attractive physical features in the specific context of sentencing outcomes.

**Attraction Leniency**

*Field Studies*

Though little field research exists on physical attraction-leniency effects in actual U.S. criminal proceedings, three exceptions are noteworthy. Downs and Lyons (1991) asked police officers to rate the physical attractiveness of over 2,000 male and female defendants prior to those defendants receiving fines and having their bail set by a judge. Their findings show that the physical attractiveness of the defendant was a significant predictor of fines and bail amounts for misdemeanor charges, but not for more serious felony charges. Their results support past research that found attractiveness only benefits those guilty of committing less serious offenses (Mazzella & Feingold 1994, Beckham et al. 2007).
Stewart (1980, 1985) sent researchers into courtrooms to witness trial proceedings in order to rate the physical attractiveness of each defendant. Verdict and sentencing outcome data were then linked from the Clerk of Court’s office to the collected ratings of defendants’ physical attractiveness. In both studies, Stewart finds that physical attractiveness did not influence whether the defendant was convicted or acquitted, but that attractiveness did influence sentence length. Even when controlling for race and seriousness of offense, the effects of attractiveness remained significant, though statistically weaker. However, as Stewart notes, most criminal proceedings are resolved in a plea-bargaining and never make it to trial, limiting the generalizability of the study.

Mock Juries and Attraction Leniency

In 1969, Landy and Aronson formed the first mock jury that investigated the effects of physical attractiveness on mock jurors’ perceptions of a defendant’s guilt while rendering an appropriate sentence. In their original study, Landy and Aronson find that, in a negligent homicide case, both physically attractive and unattractive defendants were declared guilty at equal rates; however, when they were sentenced, physically attractive defendants were sentenced more leniently than unattractive defendants. In the years since Landy and Aronson’s original study, other studies emerged supporting a physical attraction-leniency effect (Stewart 1985, Darby and Jeffers 1988, Leventhal and Krate 1977).
Other evidence finds a physical attraction-leniency effect only under certain conditions. For example, physical attractiveness has been found not to be associated with leniency when the crime is serious (Downs and Lyons 1991). Moreover, Sigall and Ostrove (1974) find the physical attraction-leniency effect is null when the crime is seen to be related to physical attractiveness (e.g. swindling). Other studies suggest that the likelihood of individuals evaluating attractive defendants more positively due to a "halo effect" (a positive judgment bias) may be overridden by negative attitudes towards the defendant's crime (Nisbett and Wilson 1977). Indeed, there is some evidence of a "reverse halo effect." That is, if a defendant is physically attractive, but is accused of committing a violent or otherwise egregious offense, then they have violated our assumptions that those that are beautiful are good, resulting in an overcorrection for the halo effect resulting in harsher punishment (Abwender and Hough 2001, Mazzella and Feingold 1994).

In light of criticisms of mock juries, (Weiten and Diamond 1979, Vidmar 2008, Weiner et al. 2011) a few scholars have attempted to overcome some limitations by applying methodology more representative of real juries. Patry (2008) found that, when having mock juries deliberate, the effects of attraction on leniency reverse. That is, physically attractive defendants were subject to harsher punishment than comparably physically unattractive defendants. Others find that effects of attraction are null when
mock jurors are provided with the judge’s criteria for rendering a guilty verdict (Weiten 1980).

**Are results from mock juries generalizable?**

Despite recent attempts to more accurately reflect jury trials, the generalizability of mock juries beyond the study setting has been questioned amongst scholars (Weiten and Diamond 1979, Vidmar 2008). This next section will outline two broad critiques. The first criticism describes methodological issues surrounding the use of laboratory settings to represent U.S. criminal proceedings.

One major critique of mock juries is that the overwhelming majority of these studies rely on undergraduates to determine the guilt and length of sentence of supposed defendants. Such mock juries are often not representative of jury demographics, most notably differing in age, socioeconomic status, and education (Weiten and Diamond 1979). Simon and Mahan (1970) compared a group of undergraduate social science students to jurors drawn from a jury pool and concluded that the undergraduate students were more likely to acquit a defendant than those from the jury pool. Others have called into question whether role-playing can sufficiently replicate the judicial process. Namely, there is a considerable difference between consequences of decisions made by a mock juror than by an actual juror or judge (Weiten and Diamond 1979). As a result, it is possible that mock jurors allow for extra-legal factors to influence their decisions more
than they might under conditions that would have real world consequences for defendants.

Furthermore, undergraduates in mock juries are often asked to determine the sentence of the defendant, a decision that jurors almost never decide, with the exception of capital punishment cases. In these cases, mock jurors are more accurately playing the role of a mock prosecutor in recommending sentencing. In such studies, the experimenters offer ranges of potential sentences that inaccurately represent potential sentences, thus allowing more room for extra-legal factors to be influential. In Sigall and Ostrave’s landmark study (1975), they asked participants to select a sentence for a burglary defendant between 1 and 15 years. In reality, such a charge would often come with a recommended sentence with far narrower range than that suggested by Sigall and Ostrave. For example, a Minnesota defendant without a criminal history would have a presumptive sentence of 18 months for the crime of burglary. In contrast, a defendant with a lengthy criminal history would be recommended to serve between 41 and 57 months (Minnesota Sentencing Guidelines Commission 2014).

Moreover, roughly half of states in the U.S. have implemented similar sentencing guidelines, raising the question of whether extra-legal factors may diminish under sentencing guidelines where discretion in determining sentencing length is reduced (Kauder and Ostrom 2008). Furthermore, extra-legal factors may be more influential at early stages of sentencing (probation versus prison sentence) where there is more judicial
discretion in determining sentencing length. In sum, by providing participants a large
degree of discretion, the mock jury method inaccurately distorts the reality of judicial and
prosecutorial discretion, and thus may allow for extra-legal factors to seem more
influential than they otherwise would.

Next, as noted previously, mock juries often omit important variables present in
actual juries. One study attempting to address this issue modified Landy and Aronson’s
(1969) study by requiring half of participants to read Illinois instructions regarding guilt
that actual jurors are provided and half of participants receiving no instructions. Those
that did not read the typical instructions supported Landy and Aronson’s hypothesis that
attraction influences juror’s perceptions of guilt. Conversely, those that did read the
standard juror criteria for guilt were not influenced by defendants’ physical attractiveness
(Weiten 1980).

Even if one is convinced by the reliability of mock juries in studying real world
criminal proceedings, only five percent of criminal cases in the U.S. are decided in trials
by jury (U.S. Department of Justice 2004). Judges, prosecutors, and defense attorneys,
who differ considerably professionally and demographically from undergraduate study
participants, more often decide a defendant’s fate than a jury of peers. In U.S.
courtrooms, the majority of cases are determined in plea deal by a prosecutor and a judge
who decides to either accept or reject the prosecutors’ suggested sentencing terms (Ross
2006).
In sum, while a growing body of research illustrates that physical attractiveness influences sentencing outcomes, other studies highlight that the effects may only be present under certain conditions, or not at all, when tested within more realistic jury simulations. In light of these issues, the present study addresses the limitations of past research by examining actual outcomes for defendants at different stages in sentencing in criminal proceedings in the United States.

Based on past research suggesting that physical appearance may only influence sentencing outcomes when the crime is considered less serious or “victimless,” I hypothesize that physically attractive drug offenders will be treated more leniently than less physically attractive offenders. However, property and violent offenders are hypothesized to not benefit from being physically attractive. These crimes are perceived to be more severe than most drug crimes (Thomas et al. 1976), requiring stronger punishment that it is not likely that judicial or prosecutorial decisions will be influenced by physical attractiveness. Therefore, I hypothesize that the seriousness of the crime will override any potential attraction leniency effect.

Second, a range in potential sentence length accompanies the most severe offenses. I predict that this discretion afforded will allow for physical attractiveness to bias decision making in the sentencing guidelines where there is a range of potential sentences, as opposed to a specific nominal suggested sentence length.
Third, focal concerns theory suggests that judgments about offenders’ perceived blameworthiness and dangerousness are weighed when making sentencing decisions (Steffensmeier et al. 1998). Repeat offenders are hypothesized to not benefit from physical attractiveness because judgments about blameworthiness and dangerousness are likely formed in consideration with known criminal history. I hypothesize that extra-legal factors, such as physical attractiveness, are particularly influential for first time offenders, where judges and prosecutors have limited legally relevant information on the offenders’ blameworthiness or potential threat to society.

Fourth, I hypothesize that first time drug offenders will stand to benefit the most from being physically attractive. These offenders not only benefit from having committed a “victimless crime,” but also from not having a criminal record to consider when judges weigh defendants potential blameworthiness or dangerousness.

Data and Measures

To test these hypotheses, I use data collected by Ryan King and Brian Johnson of 1,100 criminal offenders that linked booking photos and criminal background with sentencing information. The sample includes adult male felony cases sentenced in the Twin Cities, Minnesota in 2009. The offender’s criminal history and crime severity was subsequently linked to their presumptive sentences determined by the Minnesota sentencing guidelines.
The data includes 26 different crime types that include various drug, property, and violent offenses. This allows for an evaluation of the hypothesis that attraction leniency may only benefit those with less serious or “victimless” offenses.

Dependent Variables

I use two measures of sentencing outcomes. First, I consider whether physical attractiveness influences the type of sentence a defendant received. Sentencing research often measures incarceration as an “in-out” decision; that is, if the offender received a prison sentence or not. However, to more accurately reflect possible sentencing outcomes, it is important to account for three possible outcomes. First, a defendant may receive a stay of imposition, meaning that the court does not impose a prison sentence on the defendant. If defendants complete the conditions of their probation, their felony charge is reduced to a misdemeanor. This decision can be particularly important as it frees the defendant of potential lost wages accrued during imprisonment, while also freeing them of the lasting collateral consequences of having a felony record. The second discretionary decision is to grant a defendant a stay of execution. Here, the court imposes a prison sentence, but the sentence is only served if the defendant does not complete the conditions of the stay. Unlike stay of imposition, the defendant maintains a felony record even if the conditions of the stay are successfully met. Last, a court may impose a nominal prison sentence in which the defendant receives both a prison sentence and a felony record.
The second outcome I analyze is the sentence length imposed on the defendant. Sentence length is measured as months of imprisonment with the natural log of sentence length used to account for the positive skew of sentence length. Those who did not receive a nominal prison sentence are not included in this sample. By using two measures of sentencing outcomes, I am able to capture the potential effects of physical attraction that shape who receives a prison sentence and official felony label, as well as the possible influence of physical attractiveness on the length of sentences when they are imposed.

*Independent Variables*

To measure defendant physical attractiveness, a team of four coders rated defendants’ physical attractiveness on a scale from 1-7, with seven representing “very attractive” defendants. After testing inter-coder reliability for each racial group, there was relatively low agreement on attractiveness for Hispanics defendants (alpha=.53). As a result, Hispanic defendants were removed from the sample. With the removal of Hispanic defendants, the sample size is reduced to 994\(^1\). With a standardized Cronbach’s alpha=.69 (unstandardized Cronbach’s alpha is .65) reliability tests support the use of this measure of physical attractiveness. For ease of interpretation, the unstandardized measure of attractiveness is reported.

Past research shows that defendants receive a shorter sentence if they take a plea deal versus going to trial. I created a dummy variable “0” for defendants who did not go...

\(^1\) The sample without Hispanics is 1,051, however 57 of these offenders were never rated on attractiveness, reducing the sample is reduced to 994.
to trial and “1” for those who did, to control for this “trial tax” (Ulmer et al. 2010). Next, to control for potential county differences, a dummy variable was generated with Hennepin County coded as “1” and Ramsey County coded as “0”. Also, because age has consistently been shown to influence sentencing outcomes, I control for age and age-squared to account for non-linearity in age and sentencing (Steffensmeier et al. 1995).

A dummy variable was created for prior history to test the hypothesis regarding an attraction-leniency effect for those with no prior criminal history. Those with zero prior convictions are coded as “1” and those with one or more prior convictions are coded as “0”. To test hypothesis two that those with a range in their presumptive sentence will be treated more leniently, a dummy variable is constructed for those who fall on the sentencing grid where there is a range in potential sentences. This variable is coded as “sentencing range.” Dummy variables were created for three crime type categories: drug, violent, and property. This allows for the examination of whether the hypothesis might be contingent on type of crime committed.

Past research has found that those who can afford a private attorney may experience more favorable sentencing outcomes than those who are represented by a public attorney (Champion 1989). To capture this, a dummy variable is constructed for whether or not the defendant had a private attorney. Those with a private attorney are coded as “1” and those with a public defense attorney are coded as “0.”
In addition, I control for two legally relevant factors that, in theory, should be the only influence on sentencing. First, I control for presumptive sentence, defined as the recommended sentence a defendant should receive determined by the sentencing guidelines. Criminal history, a particularly relevant legal factor, is also accounted for in all models. Criminal history is measured as a continuous variable. By controlling for the measures that should solely determine sentencing, I can more accurately isolate the effects of physical attractiveness on sentencing.

**Analytic strategy**

Two measures of sentencing are employed. The first dependent variable, sentence type, has three levels and is analyzed with a multinomial logistic regression. Specifically, stay of imposition serves as the baseline category so that results represent a change in risk of receiving a stay of execution or prison sentence relative to a stay of imposition. Raw coefficients are reported in tables, which can be exponentiated to generate relative risk ratios. The second measure, sentence length, is a natural log of sentence length. OLS regression is employed for the model measuring sentence length. For all models, robust standard errors are reported.

**Results**

*Descriptive statistics and Baseline Model*

Crime types are relatively evenly distributed in our sample. However, there are slightly more drug offenders (41.45%) than any other criminal offense types. A quarter of
all defendants had a private attorney, however this rate was slightly higher for drug offenders (29.37%) and slightly lower for violent offenders (21.08%).

There are racial differences within control variables. For example, African American offenders, on average, were younger and had lengthier criminal histories and presumptive sentences than did white offenders. Whites were also more likely than African Americans to receive a stay of imposition. In addition, there are slight differences in attractiveness ratings across races. The average physical attractiveness rating for all offenders was 2.73. However, Black offenders were rated slightly higher than white offenders, with an average rating of 2.81 compared to 2.65 for white offenders. There are no significant bivariate correlations between physical attractiveness and crime type.

First time offenders were more likely to receive a stay of imposition (66.67%) relative to the total sample (29.78%). First time offenders also had lower presumptive sentences than the total sample, with first time offenders having an average of 21 months for their presumptive sentence, compared to 28.0 months for the total sample. Last, first time offenders were slightly younger on average than the total sample. The mean age for first time offenders is 27.65 years old, compared to 30.61 years old for the total sample.

The baseline model in Table 2 illustrates that the estimates of legal factors in the sample are consistent with prior work on sentencing. First, in the baseline model and across all other models, criminal history is a strong and statistically significant predictor of a defendant’s odds of receiving a stay of execution or prison sentence relative to stay
of imposition. Second, each month increase in presumptive sentence is associated with a 4 percent increase in odds of receiving a stay of execution ($e^{0.037}$) and an 8.5 percent increase in odds of receiving a prison sentence ($e^{0.082}$). Presumptive sentence remains a statistically significant predictor of sentencing outcomes in the baseline model and all other models. Consistent with prior work, those defendants who go to trial are at an increased risk of receiving a prison sentence (Ulmer et al. 2010). There is a negative association between being physically attractive and risk of receiving a stay of execution or prison sentence, although this relationship is not statistically significant. This is consistent with the hypothesis that physical attractiveness is only influential under specific circumstances.

*Hypothesis 1: Crime Type*

First, I tested the effects of physical attractiveness across all crime types. Consistent with hypothesis one, there is no effect of physical attractiveness for property and violent crimes. Despite some past support for “reverse halo effect” in which the most serious of offenders are penalized for being physically attractive, I find no support for this effect in the present study (Abwender and Hough 2001). However, for drug crimes, net of legally and extra-legal controls, each unit increase in physical attractiveness is associated with a 49 percent reduction in odds of serving a prison sentence ($e^{-0.665}$). This finding is consistent with the hypothesis that those who commit “victimless” offenses
will stand to benefit from being physically attractive, while offenses with clear victims will not reap the same benefits.

Past mock jury research has found that physical attractiveness negatively influences sentence length assigned for less serious criminal offenses. I find no support for this hypothesis. For all crime types, physical attractiveness was not associated with sentence length. This is, however, consistent with the hypothesis that extra-legal factors, such as physical attractiveness, are most influential at the “in-out” decision due to the filtering out of offenders at each stage in the criminal justice system. Additionally, sentencing guidelines seem to be working to suppress the influence of physical attractiveness on sentence length.

*Judicial Discretion for Serious Offenders*

The hypothesis that more serious offenders, who committed crimes in which there was a range in presumptive sentence would benefit from attractiveness was not supported. Despite the heightened judicial or prosecutorial discretion for these offenders, physical attractiveness has no effect on sentence length. This suggests that for particularly “hardened” criminals -- those with long criminal histories, severe crimes, or both -- have sentences evaluated with greater consideration of legally relevant factors, leaving much less room for physical attractiveness to be influential. While some of these offenders may be evaluated as physically attractive, and the prosecutor and judge have more discretion when determining sentence length, the nature of the crime severity and
offender history appears to outweigh any potential benefits from being physically attractive.

No Prior Record Hypothesis

Physically attractive defendants with no prior record are particularly advantaged. According to my findings shown in table 4, net of all control variables, each unit increase in physical attractiveness is associated with a 50 percent reduction in odds of being sentenced to prison ($e^{-0.673}$). This is supportive of the hypothesis that when there is less legally relevant information, such as the defendant’s prior record, that extra-legal factors are more likely to color judicial decision making. With limited legally relevant information to rely on when making decisions on how dangerous or likely an offender is to reoffend, extra-legal factors are more likely to influence judges and prosecutors decision-making.

Having committed a “victimless” offense (drug offending) and having no prior record is especially beneficial for criminal offenders in terms of sentencing outcomes. For drug offenders with no prior record, physical attractiveness appears to be a particularly powerful predictor of sentence outcome. Each unit increase in physical attractiveness is associated with a 94 percent reduction in odds of being sentenced to prison ($e^{-2.807}$). Moreover, as predicted, property and violent first time offenders do not benefit from being physically attractive. Despite the lack of criminal record, these
offenders crimes may be perceived as more serious in nature and, as a result, negate any potential influence of being a physically attractive first time offender.

**Conclusions and Discussion**

The results of this study reveal both the influence and limitations of physical attractiveness for sentencing outcomes. Being physically attractive pays, but only for drug offenders and those with no prior history. Past mock jury research has highlighted that physical attractiveness may only be influential for less serious or “victimless” crimes. The present findings support this theory. However, while mock jury research has found physical attractiveness matters for these crimes in sentencing length, the current study finds no support for the effect of physical attractiveness on sentencing length. Instead, for all supported hypotheses, physical attractiveness did not influence sentence length, but instead influenced the decision to grant an offender a stay of execution or prison sentence relative to receiving a stay of imposition. Given the filtering-out of individuals in the criminal justice system, these findings underscore the importance of examining the relationship between extra-legal factors and sentence type in addition to sentence length.

Next, across crime types, only physically attractive drug offenders were less likely to be sentenced to prison than less physically attractive drug offenders. One possible explanation for why property and violent offenders do not benefit from being physically attractive is that the nature of the crime – involving a victim as the target of the
crime – negates many of the very attributes that are ascribed to attractive individuals. That is, physically attractive people are perceived as trustworthy and less dangerous. However, by committing an offense such as burglary or assault, prosecutors and judges have strong evidence to rely on when considering how much of a threat an offender is to society at large. To borrow from Sigall and Ostrave (1975), these offenders are “beautiful, but dangerous.” The offender may be physically attractive, but the severity of their crime and history of engaging in criminal behavior outweighs biases favoring more physically attractive people.

As such, drug offenders may stand to benefit from being physically attractive because the nature of these crimes is most often viewed as victimless. Physical attractiveness may be influential for these “victimless” crimes because the attributes associated with attractive individuals, such being trustworthy and non-threatening, have not been violated by nature of their offense. Consistent with focal concerns theory, with limited information to predict an individual’s future threat to society, extra-legal factors may more easily bias prosecutors and judges’ decision making.

Lastly, I find that offenders with no prior record benefitted the most from being attractive. For offenders without a criminal record, judges and prosecutors have limited information on hand to predict offenders’ future behavior and, as a result, appear to be more likely to allow for physical attractiveness to bias their decision-making. Specifically, judges and prosecutors may attempt to reduce uncertainty about offenders’
risk of recidivism and threat to society by relying on biases and stereotypes that favor physically attractive individuals. For a first time offender, being physically attractive is particularly meaningful as it reduces their odds of receiving a prison sentence, a felony record, and all of the associated costs with serving prison time and being labeled as a felon.

In sum, though there exist multiple safeguards in place to limit the influence of extra-legal factors, the present study finds that physical attractiveness can bias judicial decision making for some offenders. However, I am mindful of a few notable limitations of this study. First, the data comes from a single U.S. city, and thus these results may not generalize to the United States as a whole. In particular, Minnesota is one of roughly half of U.S. states with sentencing guidelines (Kauder and Ostrom 2008). How physical attractiveness may influence sentencing guidelines in states with more relaxed guidelines or without guidelines is unknown. We may expect to see a more pronounced role of physical attractiveness is states with no sentencing guidelines or with laxer guidelines, but this is purely speculative at this point.

Controlling for type of attorney used allows me to address potential financial differences in the ability to afford adequate legal counsel that may relate to sentencing outcomes. However, consistent with much of sentencing research, the current data do not account for socioeconomic status of offenders. Employment status may influence judicial or prosecutorial decisions beyond the ability to afford private counsel. Moreover, there
may be a feedback loop between physical attractiveness and income for some offenders. That is, if physically attractive offenders are able to avoid prison time and a felony record, they may also be improving their employment prospects and wages earned, which in turn could help them accrue financial benefits if convicted of a crime in the future.

Similarly, mental illness may influence sentencing decisions as well as being associated with physical attractiveness. Unfortunately, the data do not indicate whether offenders had a documented mental illness. The specific drug offense with which an offender is being charged might also play an important role in sentencing outcome, yet the current data cannot account for this factor. Usage of particular drugs may have an impact on an individual’s appearance more drastically than others, and judges and prosecutors may respond to individuals that “appear” to be more serious drug offenders more punitively.

More generally, accounting for the offenders’ presumptive sentence under sentencing guidelines accounts for the how serious the drug offense is in the eyes of the law. However, some drugs may be considered less serious in the court of law, but still have a strong influence on physical appearance and vice versa. The inclusion of prior history in the model controls for documented repeat offending, which may help account for some of the effects of continued substance abuse on appearance. However, continued substance abuse that has not been documented cannot be controlled for and may meaningfully influence physical appearance.
Last, the data is limited to just male offenders and as a result it cannot speak to any relationship between physical attractiveness and sentencing outcomes for female offenders. Past research has found that there is a higher premium placed on female beauty, and physical attractiveness may be particularly influential for female offenders (Hakim 2011). It is important for future research to examine the potential influence of physical attractiveness on sentencing outcomes for women.

Despite these limitations, the present findings clarify our understanding of the influence of physical attractiveness on sentencing. If the defendant’s crime is “victimless,” or they have no prior criminal history, then being physically attractive is beneficial. However, an offender may be attractive, but the severity of their crime and history of engaging in criminal behavior appears to outweigh considerations of attractiveness. Despite a system of laws put in place to ensure that justice is blind, being physically attractive can have meaningful and long-lasting effects for these offenders.
References


Willis, Janine and Alexander Todorov. 2006. "First Impressions Making Up Your Mind After a 100-ms Exposure to a Face." *Psychological science* 17(7): 592-598.


## Appendix

### Table 1: Descriptive Statistics of Drug, Property, Violent, and First Time Offenders from Minneapolis-St. Paul, Minnesota

<table>
<thead>
<tr>
<th></th>
<th>Total Sample (N=994)</th>
<th>Min-Max</th>
<th>Drug Offenders (N=412)</th>
<th>Min-Max</th>
<th>Property Offenders (N=250)</th>
<th>Min-Max</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sentence Type</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stay of Imposition</td>
<td>29.78%</td>
<td>30.83%</td>
<td>38.00%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stay of Execution</td>
<td>39.44%</td>
<td>43.20%</td>
<td>33.20%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prison</td>
<td>30.78%</td>
<td>25.97%</td>
<td>28.80%</td>
<td></td>
<td></td>
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</tr>
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<td><strong>Legal Factors</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presumptive Sentence (In months)</td>
<td>28.05 (SD=24.48)</td>
<td>12-161</td>
<td>27.26 (SD=27.14)</td>
<td>12-161</td>
<td>21.80 (SD=11.68)</td>
<td>12-60</td>
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<tr>
<td>Criminal History 2.11</td>
<td>0-6 (SD=2.03)</td>
<td>2.09</td>
<td>0-6 (SD=1.94)</td>
<td>2.42</td>
<td>0-6 (SD=2.33)</td>
<td></td>
</tr>
<tr>
<td><strong>Crime Type</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
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<td>100%</td>
<td>0%</td>
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<td></td>
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<tr>
<td>Property</td>
<td>25.15%</td>
<td>0%</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Violent</td>
<td>33.40%</td>
<td>0%</td>
<td>0%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Extra-Legal Factors</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>County (Hennepin)</td>
<td>62.88%</td>
<td>18-62</td>
<td>56.55%</td>
<td>18-62</td>
<td>65.20%</td>
<td>18-60</td>
</tr>
<tr>
<td>Age</td>
<td>30.62 (SD=10.17)</td>
<td>18-62</td>
<td>31.36 (SD=9.52)</td>
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<td>30.60 (SD=11.07)</td>
<td></td>
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<tr>
<td>African American</td>
<td>60.56%</td>
<td>65.29%</td>
<td>46.40%</td>
<td></td>
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<tr>
<td>Asian</td>
<td>6.64%</td>
<td>7.77%</td>
<td>6.40%</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>American Indian</td>
<td>6.24%</td>
<td>3.16%</td>
<td>5.60%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>White</td>
<td>26.56%</td>
<td>23.79%</td>
<td>41.60%</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Private Attorney</td>
<td>24.75%</td>
<td>29.37%</td>
<td>22.00%</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Physical Attractiveness</td>
<td>2.73 (.81)</td>
<td>1-5.25</td>
<td>2.68 (.82)</td>
<td>1-5</td>
<td>2.77 (.81)</td>
<td>1-5.25</td>
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Continued
Table 1 (Continued): Descriptive Statistics of Drug, Property, Violent, and First Time Offenders from Minneapolis-St. Paul, Minnesota

<table>
<thead>
<tr>
<th>Sentence Type</th>
<th>Violent Offenders (N=332) % or $\bar{X}$ (sd)</th>
<th>Min-Max</th>
<th>First Time Offenders (N=360) % or $\bar{X}$ (sd)</th>
<th>Min-Max</th>
</tr>
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<tbody>
<tr>
<td>Stay of Imposition</td>
<td>22.29%</td>
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<td>66.67%</td>
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<tr>
<td>Stay of Execution</td>
<td>39.46%</td>
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<td>22.78%</td>
<td></td>
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<tr>
<td>Prison</td>
<td>38.25%</td>
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<td>10.56%</td>
<td></td>
</tr>
<tr>
<td>Presumptive Sentence</td>
<td>33.73 (SD=26.81)</td>
<td>12-161</td>
<td>20.94 (SD=16.94)</td>
<td>12-120</td>
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<tr>
<td>Criminal History</td>
<td>1.89 (SD=1.88)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Crime Type</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug</td>
<td>0%</td>
<td></td>
<td>37.17%</td>
<td></td>
</tr>
<tr>
<td>Property</td>
<td>0%</td>
<td></td>
<td>27.50%</td>
<td></td>
</tr>
<tr>
<td>Violent</td>
<td>100%</td>
<td></td>
<td>33.33%</td>
<td></td>
</tr>
<tr>
<td>Extra-Legal Factors</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>County (Hennepin)</td>
<td>68.98%</td>
<td></td>
<td>58.06%</td>
<td></td>
</tr>
<tr>
<td>Age</td>
<td>29.71 (SD=10.19)</td>
<td>18-62</td>
<td>27.65 (SD=10.18)</td>
<td>18-62</td>
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<tr>
<td>African American</td>
<td>65.36%</td>
<td></td>
<td>51.11%</td>
<td></td>
</tr>
<tr>
<td>Asian</td>
<td>5.42%</td>
<td></td>
<td>10.56%</td>
<td></td>
</tr>
<tr>
<td>American Indian</td>
<td>10.54%</td>
<td></td>
<td>5.28%</td>
<td></td>
</tr>
<tr>
<td>White</td>
<td>18.67%</td>
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<td>33.06%</td>
<td></td>
</tr>
<tr>
<td>Private Attorney</td>
<td>21.08%</td>
<td></td>
<td>27.78%</td>
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<tr>
<td>Physical Attractiveness</td>
<td>2.75 (.81)</td>
<td>1-5</td>
<td>2.77 (SD=.84)</td>
<td>1-1.525</td>
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Table 2: Baseline Model: Multinomial Estimates of Sentence Type for All Offenders

<table>
<thead>
<tr>
<th></th>
<th>Stayed Execution</th>
<th>Prison</th>
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</thead>
<tbody>
<tr>
<td><strong>Legal</strong></td>
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<td></td>
</tr>
<tr>
<td>Presumptive Sentence</td>
<td>.037***</td>
<td>.082***</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.011)</td>
<td>(.012)</td>
</tr>
<tr>
<td>Criminal History</td>
<td>1.194***</td>
<td>1.746***</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.110)</td>
<td>(.130)</td>
</tr>
<tr>
<td>Trial</td>
<td>1.339*</td>
<td>2.676***</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.635)</td>
<td>(.684)</td>
</tr>
<tr>
<td>Private Attorney</td>
<td>-.051</td>
<td>.390</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.226)</td>
<td>(.301)</td>
</tr>
<tr>
<td><strong>Crime Type</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug</td>
<td>.253</td>
<td>-.059</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.261)</td>
<td>(.332)</td>
</tr>
<tr>
<td>Violent</td>
<td>.866**</td>
<td>1.097**</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.288)</td>
<td>(.350)</td>
</tr>
<tr>
<td><strong>Extra-legal</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hennepin County</td>
<td>-.148</td>
<td>-.566*</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.199)</td>
<td>(.262)</td>
</tr>
<tr>
<td>Age</td>
<td>.0479</td>
<td>-.092</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.066)</td>
<td>(.090)</td>
</tr>
<tr>
<td>Age-squared</td>
<td>-.0003</td>
<td>.001</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.001)</td>
<td>(.001)</td>
</tr>
<tr>
<td>African American</td>
<td>.334</td>
<td>.636*</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.233)</td>
<td>(.316)</td>
</tr>
<tr>
<td>American Indian</td>
<td>.578</td>
<td>1.316**</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.424)</td>
<td>(.513)</td>
</tr>
<tr>
<td>Asian</td>
<td>.067</td>
<td>1.172*</td>
</tr>
<tr>
<td>(                      )</td>
<td>(.396)</td>
<td>(.523)</td>
</tr>
<tr>
<td>Physical</td>
<td>-.0615</td>
<td>-.128</td>
</tr>
<tr>
<td>Attractiveness</td>
<td>(.113)</td>
<td>(.168)</td>
</tr>
</tbody>
</table>

N=994

* p ≤ .05   ** p ≤ .01   *** p ≤ .001

Note: Robust standard errors in parentheses. Reference category for multinomial sentence type outcome is stay of imposition.
Table 3: Multinomial Estimates of the Effects of Physical Attractiveness on Sentencing Outcomes by Crime Type

<table>
<thead>
<tr>
<th></th>
<th>Drug (N=412)</th>
<th>Property (N=250)</th>
<th>Violent (N=332)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Stayed Execution</td>
<td>Prison</td>
<td>Stayed Execution</td>
</tr>
<tr>
<td>Physical Attractiveness</td>
<td>-.294</td>
<td>-.665**</td>
<td>.198</td>
</tr>
<tr>
<td></td>
<td>(.201)</td>
<td>(.271)</td>
<td>(.260)</td>
</tr>
</tbody>
</table>

* p≤.05  ** p≤.01

Note: Robust standard errors in parentheses. Reference category for multinomial sentence type outcome is stay of imposition. The model controls for the presumptive sentence, criminal history, trial conviction, county, private attorney, race, age and age-squared.
**Table 4: Multinomial Estimates of the Effects of Physical Attractiveness on Sentencing Outcomes for Offenders with and without a Prior Criminal Record**

<table>
<thead>
<tr>
<th>Physical Attractiveness</th>
<th>No prior record (N=360)</th>
<th>Repeat Offenders (N=634)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stayed Execution</td>
<td>Prision</td>
<td>Stayed Execution</td>
</tr>
<tr>
<td>Physical Attractiveness</td>
<td>-.049 (.166)</td>
<td>-.673* (.336)</td>
</tr>
</tbody>
</table>

*p ≤ .05  
*Note: Robust standard errors in parentheses. Reference category for multinomial sentence type outcome is stay of imposition. The model controls for the presumptive sentence, trial conviction, county, crime type, private attorney, race, age and age-squared. Property offenses are set as the omitted category for crime type.
Table 5: Multinomial Estimates of the Effects of Physical Attractiveness on Sentencing Outcomes for Drug Offenders with No Prior Criminal Record (N=141)

<table>
<thead>
<tr>
<th></th>
<th>Stayed execution</th>
<th>Prison</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical Attractiveness</td>
<td>-.480</td>
<td>-2.807***</td>
</tr>
<tr>
<td></td>
<td>(.296)</td>
<td>(.688)</td>
</tr>
</tbody>
</table>

* p ≤ .05  ** p ≤ .01  *** p ≤ .001

Note: Robust standard errors in parentheses. Reference category for multinomial sentence type outcome is stay of imposition. The model controls for the presumptive sentence, criminal history, trial conviction, county, private attorney, race, age and age-squared.