I negate.

Abstract conceptions of due or justice are nonsensical because legal accountability is contextualized within the confines of legal rules. We can’t appeal to abstract moral principles because, even if we can justify a particular concept of due in-round, the members of the legal system not trained in ethics will be unable to effectively identify due in that way. The only way to construct or be consistent with state obligations is, thus, to accurately apply in-court decision and proceeding convictions and punishments.

Thus, the standard is consistent application of state law.

Additionally, when people break the law or enter into a society, they do so with regards to the legal system. Thus, it’s immoral for the state to change the rules on individuals during the trial proceedings, as it removes any legitimacy from the trial proceedings since the state no longer acts as the same entity that originally garnered legitimate authority.

I contend that a jury-based system is incapable of applying the law.

First, juries are not capable of making the decisions we want them to make. Albert Alschuler[[1]](#footnote-1) writes:

The decision in Turner manifests a pattern of condescension toward jurors that appears in many of our practices and procedures. **Although we invest jurors with important responsibilities**, we seat them at the side of the courtroom in an area vaguely resembling the Peanut Gallery on the Howdy Doody Show.35 **We usually do not permit jurors to ask questions,**36 **and we do not permit them to explain their rulings.** Like good children, good jurors are to be seen and not heard. **Even in white collar crime prosecutions so complex that lawyers bring computers to the courtroom to keep track of their evidence, jurors often are not permitted to take notes.**37 **A verdict apparently must be the product of atmospheric folk wisdom rather than careful study and reflection.** Much of our law of evidence (including its central rules regarding hearsay and character evidence) rests on the proposition that the prejudicial impact of relevant information may outweigh its probative value-in other words, that although judges and rulemakers can understand thelimited worth of this evidence, jurors who evaluate similarly fallible evidence intheir everyday lives cannot. In accordance with the attitude toward jurors that our procedures commonly express, questions that would seem rude in other social contexts suddenly may appear unobjectionable when asked of prospective jurors. To be sure, we do not always treat jurors as children. **At the conclusion of the trial, we ask them to master legal concepts that,** despite my best efforts, **some** of my **students fail to grasp at the end of a lengthy course on criminal law.**

Second, juries are not capable of applying the legal system’s requirements. Jury misunderstanding of instructions prevents a fair trial and is systematically ignored by the courts. Walter Steele and Elizabeth Thornburg[[2]](#footnote-2) write:

**Jury confusion** also **arises from** the **definitions** that **the court provides** to jurors. **Case law shows juror misunderstanding of** definitions of **“actual notice,” “undue influence,” “pledge,” “homestead,” and “consent.” Mistaken notions about the definitions of such operative words lead to mistaken verdicts, but courts** again **refuse to grant new trials based on misunderstood definitions [because]**. A Texas court explained, **“It is not misconduct for jurors to misunderstand or misinterpret a portion of the court’s charge and to argue an erroneous interpretation to the other jurors where facts and law outside the record are not brought to the jury’s attention.”** Assuming jury misconduct is the only ground for concern, **the court** again **defines jury misunderstanding of instructions as a nonproblem that needs no correction. The law in some states** goes so far as to **prohibit[s] the trial judge from attempting to clarify juror confusion. In Teaney v. City of St. Joseph** the jury sent the judge a note which showed that it did not understand an instruction. The trial court sent a note back to the jury, pointing to two relevant instructions and highlighting particular parts of their language. It was agreed by all parties that the judge’s clarifying instructions were accurate. **The appellate court**, however, **held that it was error to elaborate on a pattern instruction. Even though the jurors’ note showed clearly that they did not understand, the court stated that “[i]mplicit in a scheme of approved pattern instructions…is the central idea that such instructions do not require further clarification or amplification.” This time the problem was avoided with legal fiction: these instructions are perfect, so the jury must understand them.**

Answers to AC

This controls the internal link to due process because it’s useless to be able to effectively defend yourself if the agents who evaluate your exercise of rights don’t understand the intricacies of what is occurring. Further, the jury is the agent of ultimate control who makes the final decision, so their bias outweighs all other bias as they literally make or break a case in a way no one else does.

1. Albert W. Alschuler, “The Supreme Court and the Jury: Voir Dire, Peremptory Challenges, and the Review of Jury Verdicts,” The University of Chicago Law Review, Vol. 56, No. 1 (Winter, 1989), pp. 153-233 [↑](#footnote-ref-1)
2. Walter Steele and Elizabeth Thornburg [Steele is a Professor of Law at Southern Methodist University. Thornburg is a Visiting Assistant Professor of Law and Director of Legal Research and Writing at souther Methodist University] “Jury Instructions: A Persistent Failure to Communicate” North Carolina law Review, Vol. 67, pg. 120, 1998-1999. SSRN. [↑](#footnote-ref-2)