Legitimation and the Heteroglossic Nature of Closing Arguments

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THE CLOSING ARGUMENTS of criminal trials in the United States are both a persuasive and an argumentative genre in which two lawyers take the same defendant, victim, witnesses, and evidence and use their linguistic and communicative skills to create opposing discourses that are intended to make the jurors decide in their side’s favor. In these discourses, lawyers frequently call upon the words or voices (Bakhtin 1981) of others such as witnesses, the law, and cultural products such as the Bible. In this chapter I examine the official trial transcripts of the closing arguments in eighteen felony state district court trials and argue that during the closing arguments, lawyers use the voices of others for several functions, and one is to legitimate the narratives they produce about the crime and the trial. When they use a voice as a legitimation device, the other side has two options: to respond directly (e.g., by recontextualizing the statement, deauthorizing the original speaker, or delegitimizing the statement) or to silence the voice. The two sides are able to create contrasting representations of the same reality partly through the different voices they use to legitimate their arguments.

The Closing Arguments of Criminal Trials
In the court system of the United States, the closing arguments are lawyers’ final opportunities to convince the jurors that they should reach a certain conclusion about the defendant’s guilt or innocence. Throughout the trial, the prosecution creates a crime story (Heffer 2005)—its depiction of what supposedly occurred during the events in question. The defense then creates its own alternative story or else finds flaws in the prosecution’s. The crime stories created by the two sides are the “stories in the trial” (Jackson 1988). They are put together into more cohesive and complete narratives during the closing arguments. Throughout the trial, however, there is also the creation of the trial story (Heffer 2005) or “the story of the trial” (Jackson 1988). During the closing arguments, lawyers thus spend much of their time on the trial story, which includes what the witnesses said, how people behaved, and what other events occurred during the trial (Heffer 2005).

In addition to these two types of narratives, there are also mythopoetic stories. According to Van Leeuwen (2007), these are stories that provide legitimation for the
speaker’s suggestion that the hearer(s) should behave in a certain way. This type of narrative appears frequently in the corpus as attempts to convince jurors to act in a certain way or to caution them not to, as in this example:

(1) There’s a young family with two young children. . . . One child doesn’t regularly eat the crust on their toast or their bread and so the parents are trying to teach them proper nutrition and to eat all of the bread including the crust. So one time the father is upstairs in the attic and sees some crust in the attic area. . . . So he goes down and gets one of the children who he believes was the offender, brings them upstairs to the attic and says, “I’m going to make you eat this. You’re going to learn to eat crust.” The mother happens to be nearby and hears that, runs in and says “No. Stop. That has rat poison on it. I was using that to kill the rats.”

In this story, the father was going to use circumstantial evidence, and it would have killed his child. The defense lawyer warns that “that is the danger when dealing with circumstantial evidence” in a closing argument, and if the jurors use it, they may make as important a mistake as the father in the story would have.

Heteroglossia

The closing arguments of criminal trials are heteroglossic discourses (Bakhtin 1981), which means that speakers take on multiple roles in a discourse, and in doing so, they re-create the voices of others either in the form of reported speech or quoted speech. For the purposes of this chapter, the quoted or reported speech will be termed “voices” to draw on the insights of Bakhtin (1981, 1986) that in every discourse, multiple viewpoints and multiple characters’ voices are re-created to produce a single discourse. Speakers take on multiple identities or footings (Goffman 1981), and some of these positionings are as characters, speakers from past discourses whose words are reanimated, performed, or constructed (Koven 2002; Tannen 2007). Many of the voices of characters are recontextualized (Bauman and Briggs 1990) in ways that fit the current context and the ideological position of the current speaker.

In the closing arguments, lawyers re-create voices from many characters, including those of witnesses, the judge, the law, each other, and outside characters. However, little has been said in the literature about why lawyers use the many voices of others and, specifically, what functions are served by the different voices other than that they are a means of implicitly evaluating the credibility of the witnesses (Fuller 1993; Heffer 2005). Therefore, this chapter seeks to examine the functions that are served by the inclusion of different voices within the closing arguments of criminal trials, and how the use of these voices contributes to the creation of opposing discourses by the prosecution and defense.

The Data

The data for this analysis come from the official trial transcripts of the closing arguments in 18 felony trials that took place between 1996 and 2006 in a state district court in the Midwestern United States. The defendants were on trial for crimes that included murder, child sexual abuse, sexual assault, controlled substances, robbery, and assault.
The arguments were given by ten defense lawyers (three female, seven male), with one having three arguments in the corpus and five having two. There were nine different prosecution lawyers (three female, six male). One had two arguments in the corpus, two had three, and one had four. The trials themselves were not chosen for any reason, other than availability, so as to not influence the type of results found.

To examine the heteroglossic nature of the closing arguments in the corpus, I recorded all instances of the use of another’s voice as either quoted or reported speech. I coded each instance of another’s voice by the character whose voice was re-created, the topic(s) discussed in the voice, and if the lawyer agreed or disagreed with the voice as was evident from the surrounding discursive context. For each argument, I then cross-checked the opposing argument for the use of the same voice and the function it served in that argument. By comparing which voices were included in arguments and how they functioned, the types of voices lawyers use and the functions they serve emerged. By comparing the results for pairs of arguments from the same trials, I was able to show how the use of different voices for different functions allow lawyers for opposing sides to create contrasting narratives about the same events.

Functions of Voices
The analysis revealed that reanimated voices serve five different functions in the closing arguments. First, they are used for legitimation when the lawyers quote an authority to use the source’s credibility and status as evidence for the veracity of the lawyers’ assertions. Second, voices are re-created so that the lawyers can recontextualize or give them a new or altered meaning. Third, voices are used as evidence when the lawyers argue for or against a witness being considered a legitimate authority. Fourth, voices are reanimated when the lawyers deconstruct the truth value of the original utterances. Finally, lawyers re-create the voices of characters in narratives when they describe an event and a key action in that event was verbal in nature. All five functions allow the lawyers to create persuasive arguments while reanimating others’ voices.

Legitimation
In the data, the first reason that lawyers use the voices of others is to legitimate their own narratives and conclusions. Legitimation encompasses the reasons, the justifications, and the validations for how things are (Berger and Luckmann 1966; Van Leeuwen and Wodak 1999; Van Leeuwen 2007). In the case of the closing arguments, the lawyers are trying to present a narrative as valid and as necessarily true. The lawyers are utilizing the authority of other speakers as a means of increasing the persuasiveness and legitimacy of their argument.

During the closing arguments, the lawyers present a narrative of the crime and the investigation despite their not having been present for these events. Ultimately, they accomplish this by drawing on the voices of the witnesses who testified about what occurred, as in this example:

(2) [The defendant] got mad at me. . . . He went off on me and shoved headfirst into a furnace. . . . That’s why I don’t have hair on my arms. He beat me up.
In (2), the lawyer directly quotes the victim of the crime and thus animates a first-person account of the assault she suffered at the hands of the defendant. The effect of this is that the witness, as someone who was actually there, serves as a “personal authority” (Van Leeuwen 2007), which is being an authority due to one’s role in the local context. Thus, the voice of the witness provides legitimation to the narrative the lawyer is presenting because someone who was there said that that was how the events happened.

In all the examples in the corpus where the lawyers use the voice of a personal authority, the witness’s authority comes from his or her familiarity with the defendant, victim, crime, or investigation, and their having sworn to tell the truth on the witness stand. There are times such as (3) when the authority of the witness needs to be argued by the lawyer:

(3) She said—testified that at the time that she was living at this residence that she was unemployed and was normally home except when she had to go to treatment.

In (3), the witness’s authority is constructed by saying that she was present at the time the abuse may have occurred, so she has the authority to testify about what happened during that time.

Other than witnesses to the crime, experts (e.g., medical professionals) frequently testify during trials, adding their explanations of what occurred and why (Mauet 1996; Wilson 1997). During the closing arguments, these witnesses serve as “expert authorities” (Van Leeuwen 2007) through the lawyers’ reproduction of their voices. Experts are those whose authority is based on the amount of knowledge and understanding they are presumed to possess. Lawyers have no personal expertise in these areas, so they utilize the words of those who do to legitimate their argument as in examples (4) and (5):

(4) Dr. [X] said that such shaking poses a grave risk of death to a seventeen-month-old child.

(5) Dr. [Y] said children may be convinced or manipulated into saying or believing something is true when it is not.

The physician in (4) was called to testify in a shaken baby case, in which the defendant admitted shaking the baby but the defense argued that that had not caused her death. The voice of a medical expert is thus offered to legitimate the prosecution’s claim that it did. In the case in (5), a child claimed to have been abused by a family member, and the defense argued that she was mistaken. They used the voice of this expert to legitimate their claim that it was possible that despite her saying that abuse occurred, it did not.

Frequently, in closing arguments, that the witness is an expert is not discussed, because it has already been granted by the court or discussed during the witness’s testimony. However, there are other instances in the corpus where the status of the witness as an expert is discursively constructed during the closing arguments, as in (6):
(6) Then there was Dr. [Y], and I want to talk to you a little bit about Dr. [Y]. . . . He’s a man that’s published hundreds of works on sexual abuse. He’s an international and national presenter on the topic.

That lawyers construct the witnesses as experts as in (6) is important because, as Matoesian (2001) demonstrated, though the status of expert is institutionally granted, it is also reconstructed in the interplay between the lawyer and the witness testifying on the stand. This corpus shows that it is sometimes reconstructed again in the closing arguments.

Other than witnesses, another set of voices that lawyers reanimate to legitimate their conclusions are the “impersonal authorities” (Van Leeuwen 2007) of the law and the judge. According to Van Leeuwen, impersonal authorities are “laws, rules, and regulations” (96). In the American court system, the judge does not serve as an expert but as an impersonal and removed entity who hands down regulations that must be followed. Lawyers use the voices of the law and judge to legitimate their evaluation of the elements of the crime narrative. Examples of this can be found in (7).

(7) Knives which are, in the words of the judge, something that in the manner it is used or intended to be used is known to be capable of producing death or great bodily harm, so the knives are dangerous weapons.

In (7), the lawyer is defining the knife used in the crime as a dangerous weapon, and he uses the words of the judge to legitimate his evaluation of it. Lawyers also use these authorities’ voices to legitimate their commands to the jurors. They construct their orders and instructions as not originating with the lawyer but as dictated to them by the law and judge, as in (8):

(8) The law that you have sworn to uphold tells you that you cannot convict a person on speculation, belief, or conjecture.

Here, it is not the lawyer telling the jurors not to convict the defendant based on conjecture; it is the law. Having the law require it of them not only legitimates the command but also might mitigate the face threatening act to some degree.

Additionally, lawyers utilize cultural or symbolic voices, which serve either as “role model authorities” or “voices of tradition” (Van Leeuwen 2007). As examples (9) and (10) demonstrate, this is the object of using a culturally or socially accepted source or norm as an authority:

(9) It brings to mind to me a quotation by Louis Nizer, a well-respected attorney who once said, “When you hear an assertion, compare it against a rule of probability.”

(10) There’s an old Mexican proverb and it says, “Solo los niños y los borrachos dicen siempre la verdad.” That means only little children and drunks always tell the truth.

The quotation in (9) is an example of the lawyer using a role model authority, a symbolic person who by his believing in a statement may make the jurors believe in
it as well. In (10), the lawyer quotes a Mexican proverb for which there is an English version as well. The authority of this voice comes from society accepting this traditional voice as a source of knowledge, and with this power, it provides legitimation to the lawyer’s statement.

Of particular importance, by quoting a cultural reference, lawyers not only legitimize their claim but also call upon a shared cultural base. For example:

(11) A person also has the ability to do good things, too. I just want to refer you to the adage in the Bible that those who are without sin cast the first stone.

The lawyers use the authority of the cultural product to add credibility to their claims, but by using the references they do, the lawyers also place themselves within the same social group as the jurors. For example, in (11), the lawyer indexes that he is a Christian who knows the Bible. Given the locale in which this trial took place, it is likely that many jurors would also fit into this category. Because Mauet (1980) found that jurors believe lawyers with whom they share a cultural or personal connection, it seems likely that these references will add another layer of persuasive power to the lawyer’s argument because they index a common identity.

The final use of others’ voices as legitimating authorities functions a little differently because the truth value of the repeated utterance is not important. What is important is that people might have said it. These are hypothetical voices about what people generally do or might do to serve as the “legitimation of conformity” (Van Leeuwen 2007). This type of authority comes either from doing what is “always” done or from what “everyone” or at least “most people” do (Van Leeuwen 2007, 96). They are marked by an abstract subject, such as we, you, and people, and then a statement about what is the usual course of action, as in the following examples:

(12) We see something on the TV or a magazine, a crime that is, and we tend to conclude, “Gee, this guy looks like a bad guy. A terrible thing he did. I hope they catch him.”

The lawyer is not accepting the truth value of the quoted utterance, but he or she is using it to legitimate the thoughts the jurors may have had during the trial or the things they may say during the deliberations as normal.

The common thread among the different sources of authority used in the corpus is that their voices are being used to legitimate the lawyer’s argument, to add credence to his or her narrative and evaluations. The lawyers use the words of people whose knowledge of the topic is potentially more acceptable than the lawyer’s own—witnesses, experts, judges, society, cultural icons, and so on. A lawyer could omit these sources of information and present the narratives and evaluations as his or her own, but by creating a heteroglossic discourse through direct and indirect quotations, the lawyer utilizes the authority or believability the original speakers may have in the minds of the jurors.

**Recontextualization**

Lawyers also reanimate others’ voices to recontextualize (Bauman and Briggs 1990) or rephrase them. Frequently, this is done so that the voice is understandable to the
jurors, such as when lawyers are reanimating an utterance that either is difficult to comprehend (as with the voices of experts or the law) or has multiple possible interpretations. The recontextualization of an utterance that is difficult to comprehend can be seen in this example:

(13) The defendant is guilty of a crime committed by another person [person A], when the defendant has intentionally aided the other person in committing it or has advised or hired or counseled or conspired with or otherwise procured the person to commit it. . . . They were in on it together and the law says that when you’re in on it together and somebody else commits a crime, you’re liable too.

In this example, the meaning of the discourse legitimates the lawyer’s claims that the defendant is guilty by being involved in the criminal act, even if he was not the one who made the fatal blow, but it could be lost on the jurors because it is legalese and quite a lengthy sentence. Therefore, the lawyer restates the law as being “when you’re in it together and somebody else commits a crime, you’re liable too.” Therefore, the lawyer uses the re-creation of the voice as an opportunity to recast it in a way that the jurors may understand more easily.

The second recontextualization process in which lawyers give their interpretation of another voice, be it a witness’s or the law’s potentially ambiguous statement, can be seen in example (14).

(14) At that time he’s coming up with things that, “Hey, look, I, you know, I might have hit her head on the crib a little bit.” He doesn’t know that that kind of force couldn’t have caused the injuries at that time.

In this example, the lawyer is using the words of the defendant to legitimate the defense’s claim that he did not know what type of force could have hurt his daughter and thus thought he might have done it during an accident. The lawyer not only uses the defendant’s voice to show this, but the lawyer then recontextualizes it to explain what he meant when he said it. As this example shows, the lawyers can use the voice of another not only as evidence of the accuracy of their narratives but also as an opportunity to recontextualize the words in such a way that their interpretation fits their argument.

Additionally, lawyers recontextualize others’ voices so they can respond to them in a sort of manufactured dialogue. For example, when one side posed a question to a witness who then answered it or a lawyer posed a question to the jurors during his or her argument and then answered it himself or herself, the other side’s lawyers would then repeat the question during their closing argument to frame the discourse and then respond to it even though the question was not initially directed at him or her. For example:

(15) [The prosecution lawyer said] “Why would she be sweating?"

In this example, the defense lawyer is presenting a verbal action, questioning, that the prosecution lawyer performed during his closing argument and is doing so that he can provide a different answer to the question than the prosecution lawyer did. Pascual (2006) showed that lawyers frequently use questions in the closing arguments
to present a fictive trilogue among themselves, the jurors, and the opposing lawyer. This is a perfect example of this phenomenon, because the first lawyer asked the question and responded in one way while the second lawyer re-asked the question in the first lawyer’s voice and then answered it in a different way.

**Authorization/Deauthorization**

As discussed above, lawyers often discursively construct the authorities they use as experts. They also frequently spend time deconstructing the authority of the other side’s witnesses. In some cases in the corpus, lawyers use the speaker’s own words as evidence of their authority or lack thereof. In other words, they re-create a metadiscourse that a witness has provided about his or her own credibility and authority, and in doing so, they rely on a witness’s authority as an expert on themselves to legitimate their claims:

(16) When Mr. [D] asked you—or accused her of siding with her daughter, what was her answer? “I’m not siding with anyone. I’m just telling the truth.”

(17) If you recall, he even admitted to me that his opinion could be described as an educated guess.

In example (16), the prosecution lawyer allows the witness’s own voice to legitimate his and her claim that she is a credible witness. In (17), the defense lawyer claims that the prosecution’s expert witness did not meet with the victim and thus did not have the necessary knowledge to give an expert opinion. To legitimate their claim, they reanimated this utterance of his in which he agrees that he is not a complete authority or expert in the case.

**Deconstruction**

Next, though lawyers often use multiple voices of other characters to legitimate their narratives, there are also many instances when lawyers on one side disagree with what a witness said. This is the case in examples (18) to (20).

(18) He admitted that he would get frustrated by [the victim’s] crying. Interesting point with that. When he testified here yesterday he said she very rarely cried, she’d just sleep all day, but that’s not what he told the police.

(19) He claimed that he and ____ went to work that day. They worked all day. And we find out from the next witness that no, they didn’t go to work that day.

(20) The prosecutor said in his closing statement “[B’s] assault on [the victim] doesn’t matter.” But it does. If [B’s] assault on [the victim] could have caused the head injuries that resulted in death, it matters.

In (18), the lawyer uses what the defendant said in earlier statements to contradict what he said during in his testimony. This assumes that what he told the police was the true statement, and it recontextualizes what he said on the stand as false. In (19), the lawyer claims that what the defendant testified to is false because another witness testified to something else. The supposition, then, is that the other witness was telling the truth and the defendant was not, instead of the other way around. In (20), the defense attorney quotes the prosecution lawyer so that she can disagree with
him and can show through a sort of logic that what he said was wrong. Overall, by deconstructing the truth value of the original discourse, the lawyers attempt to take away the legitimating power of the words.

**Verbal Actions**

The final reason that lawyers use the voices of others is to depict verbal actions in narratives. Verbal actions occur in a narrative when the process in which a character engages is verbal rather than mental, physical, and the like. An example:

(21) When asked about what happened to [the victim] his response was, “Sharon who?”

In this example, the lawyer is presenting the narrative of the investigation, and he includes the voice of the defendant when the defendant’s feigned lack of knowledge of who the detectives were talking about was a complicating action in the narrative. A voice such as the one in example (2) is classified as functioning as a verbal action when the voice is the re-creation of a complicating action in the narrative, though it is a verbal action. In other words, the function of the voice is to re-enact what a person said during an event. The truth value of the statement re-created is not at issue; nor is the authority of the speaker. Additionally, the voice is not meant to legitimize the lawyer’s claims. It is simply being used to re-enact a verbal process that occurred during an event.

The inclusion of voices as representations of verbal actions is often not neutral. In example (21) above, what the defendant supposedly said is something a small child who is in trouble would say, or so the prosecution lawyer claimed. Verbal actions can also index other social positions, as in this example from Hobbs (2003):

(22) I was waitin’ f’r him to start sw-sw-singin’ “Swing low, sweet chariot, coming for to carry me home” because this case is all about race. (Hobbs 2003, 284)

In this example, the lawyer evaluates the witness as a person who might have started to sing this spiritual on the stand. By evoking this voice, regardless of the fact that it did not actually occur, she characterizes him as someone who would say such a thing (Hobbs 2003; Fuller 1993). In other words, lawyers often re-create the voices of characters not only because it is important for the sake of the narrative that the character said something but also because what they said or even how they said it marks them as part of a certain social group or as having certain characteristics. This supports the findings of Bakhtin (1981), Agha (2005), Koven (2002), Tannen (2007), and many others.

Lawyers also use what could be called nonexistent voices or a discussion of voices that did not occur to evaluate the characters as well as to present the narrative, as in these examples:

(23) He certainly didn’t come out and say, “Yes, I did this to her and I—and I feel terrible.”

(24) Where is the “No way, There’s no way this happened, I would never, I did not. She’s either lying or she’s crazy.” “I don’t know, but I didn’t do this, there’s no way in the world I did this.” Where is that?
In example (23), the defense lawyer is using what the defendant did not say to evaluate what he did admit to as not as bad as it could be. By characterizing what the defendant could have said but did not, the defense lawyer evaluates the defendant’s statements as not a true admission. In example (24), the lawyer says that the defendant did not say the things an innocent man would have. By using the negative voice, the lawyer evaluates the defendant as not innocent. Overall, but presenting verbal actions that did not occur in the investigation and trial, the lawyers create narratives that evaluate their not occurring as meaningful.

When speakers presenting a narrative re-create a dialogue such as a verbal action, it can add a level of performance to the narrative (Ferrara and Bell 1995). Constructed dialogues can create a bond between the speakers and the hearers, and they can make characters more lifelike (Tannen 2007). Though it is not being argued here that adding a level of performance to their closing arguments is the conscious intention of lawyers when they reanimate voices that are verbal actions, it could be an effect of this process.

The Construction of Opposing Discourses
The previous discussion highlighted how lawyers use the voices of others to suit their own needs. When arguments are compared for which voices they use and how, it becomes clear that it is in the juxtaposition of the different uses of other’s voices that the construction of opposing discourses by the two sides occurs.

There are instances within the corpus when both sides during their arguments take the same segment of discourse and reanimate it in order to legitimate their arguments. When this occurs, each side recontextualizes the voice so its interpretation is in line with their argument. Thus, the same voice legitimates each side’s narrative. Cases of this can be seen in examples (25) and (26):

(25) Prosecution—He said and admitted, “I never ruled myself out as a possibility.” During the next few minutes I’m going to show you that there’s a reason he didn’t rule himself out. That reason is because he is the only person who could have, who had an opportunity to, and in fact did commit this crime.

(26) Defense—And when he had stated, “I never ruled myself out as a possibility,” that goes to the interviews. . . . What he does is he sits down and he proceeds to tell Officer [B] any and every possibility he could possibly think of how [the victim] could have been injured. . . . He doesn’t know that that kind of force couldn’t have caused the injuries at that time.

In (25), the prosecution takes the defendant’s statement “I never ruled myself out as a possibility” and portrays it as an admission to the crime, in which the defendant legitimated his role as a possible defendant. In (26), the defense takes the same exact statement and recontextualizes it as evidence for their claim that the defendant did not know what kind of force by which the child’s injuries were caused because he is an inexperienced parent who was doing anything he could to help the police.

In some instances, one lawyer will use a speaker as a source of authority and the other lawyer will deauthorize that speaker in his or her argument. In some examples,
the second lawyer produces a discourse about why the original speaker should not be seen as credible or as knowledgeable about the topic, as in these examples:

(27) Defense—He told you that if this had happened in his jurisdiction—this is Dr. [Z] now, a coroner, a guys whose job it is to make these determinations, just like Dr. [A], if this happened in his jurisdiction he would have called it an accidental injury.

(28) Prosecution—I think you really need to consider in this case with regard to Dr. [Z’s] testimony. . . . He admitted that his opinion in this case was written in a letter to a defense counsel before he had ever seen any law enforcement reports. It was based solely upon a limited amount of medical reports.

In this case, the defense had provided an expert witness who was not from the area to counter the claims made by the prosecution’s expert witnesses. They legitimate their claim that this was an accidental death by reanimating the voice of the authority who also said this. The prosecution, conversely, counteracts this claim not by saying that what Doctor [Z] said was wrong but by deconstructing his expert status and his authority to make such a judgment.

In other instances when one side uses a voice as a source of legitimation, the other side attacks what the speaker said, not the speaker himself or herself. In these instances, the side opposed to a voice frequently reanimates the same voice and then discusses why it cannot be true, as in these examples:

(29) Prosecution—She said it was impossible, that was her word, impossible for these injuries to result from a short fall based upon her experience, that is, thirty years as a pediatrician.

(30) Defense—Dr. [B] said “It is impossible to get a fatal injury from a short fall; impossible.” I asked her about that specifically and I asked her, could she be wrong, and she said, she said “Well, I’m human you know.” . . . And in fact Dr. [C] and Dr. [D] agree that it is possible to get a fatal brain injury from a short fall.

In (29), the prosecution uses what Dr. [B] had said to legitimate their claim that it was not possible that the child had received the injuries that killed her from falling, as the defendant claimed. The defense then challenges the truth value of this same utterance in (30) by referring to the fact two other doctors had said it was possible. The prosecution silences the alternative views.

Finally, there are instances when one uses a voice as legitimation and the other side silences that discourse (Huckin 2002). By omitting voices that are antithetical to the narrative, lawyers deny their validity and importance. For example, in one case, the prosecution silenced the entire testimony of the victim’s daughter, who observed the altercation between her father and the defendant and who confirmed that the victim, her father, was fighting back. This could have helped legitimate the defense’s self-defense claim so the prosecution silence it. The lawyers also silence the testimony of the second victim in the case (the first died; the second did not). He struggled with the truth, but the defense includes him so they can deconstruct what he has said. In this instance, what the victim has said could legitimate the prosecution’s claims, but
the defense challenges the testimony’s truth value, thus attacking his credibility and authority. The prosecution then remains silent about his testimony, erasing its importance in their argument.

Conclusion
This analysis has shown that lawyers reproduce the voices of others in their closing arguments for five main reasons: (1) The lawyers use the authority of the original producers of the voices to legitimate the point they are making; (2) the lawyers are able to recontextualize the voice to suit the argument their side is making; (3) the lawyers use the speaker’s own words to authorize or deauthorize him or her as an expert; (4) the lawyers disagree with what a witness said and re-create it in order to deconstruct its truth value; and (5) the voices reenact verbal actions being described in the narrative. Within these processes, they can also position themselves as members of a community with the jurors, all of whom are aware of certain culturally recognized voices. Thus, the heteroglossic nature of closing arguments exists for complex reasons.

Using these different functions, lawyers are then able to build contrasting closing arguments from the same base by drawing upon different voices and by silencing, recontextualizing, deauthorizing the speaker, or deconstructing the truth value of voices the other side used to legitimate their argument. In other words, lawyers pick and choose among what others have said to construct an argument that is in opposition to the other side.

NOTES
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1. For the purposes of this analysis, any differences between quoted and reported speech will be ignored as they are both attributing the context of the message to the original speaker, regardless of whether the linguistic forms are left intact or changed in the current discourse.

REFERENCES
LEGITIMATION AND THE HETEROGLOSSIC NATURE OF CLOSING ARGUMENTS


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