

# PROLOGUE

Effective legal writing calls not only for artistry but also for scientific understanding. Legal wordsmiths turned words and phrases into finely tuned aphorisms, just as van Gogh and Matisse turned blank canvases into brilliant combinations of color and light. Unlike most forms of art, however, effective legal writing serves primarily to explain and persuade. You cannot easily explain or persuade without considering how your intended audience will process your words.

Thinking about the intended reader is natural. Is your brief going to a court overwhelmed by filings? Is the assigned judge likely to read the brief once or to reread it many times? Are opinions by the assigned judge long or short?

But these questions simply skim the surface of how others read documents. Deeper insight comes from empirical data on how all of us read a given document. How much does someone remember after reading a document? And how does one increase the chances that a reader will remember the critical parts of an argument? This is the domain of psycholinguistics, which focuses on the structures and processes underlying the ability to express and comprehend the written word.<sup>1</sup>

For decades, psycholinguists have studied how we read, tracking how quickly our eyes move from word to word and how we remember language. These studies help explain how we can maximize a reader's understanding and recall, essential components to effective legal writing in any form.

---

1. See Jean Aitchison, *The Articulate Mammal: An Introduction to Psycholinguistics* 1 (1989) (“The common aim of all who call themselves psycholinguists is to find out about the structures and processes which underlie a human’s ability to speak and understand language.”).

But to write effectively, one needs more than a treasure trove of scientific data; one also needs to appreciate the opportunities to inject artistry into the prose. Artistry is not an end in itself; it is simply a tool to help readers understand and remember language.

Consider some of the great poets or painters from our past. Whatever poets or painters come to mind likely share a clarity of expression and the memorable impact of their art. Poets evoke memorable images by using tools like alliteration and rhyme; painters evoke memorable images by using every dash of paint to develop a central idea. Most legal writing will not rise to the artistic level of an Emily Dickinson or Henri Matisse. But all of us can enhance our legal writing by learning how to use artistry to improve the clarity and power of our own written expression.