

# Electoral Crime Under Democracy: Evidence from Brazil

Andre Assumpcao\*

June 1<sup>st</sup>, 2019

## Abstract

This paper presents the first analysis of the relationship between electoral crimes and electoral performance in large democracies. Using a sample of candidates charged with electoral crimes in the race to municipal office in Brazil between 2004 and 2016 and employing an instrumental variables strategy, I find that being ultimately convicted by the Brazilian Electoral Court reduces the probability of election by 23.1 percentage points and convicted candidates' vote share by 13.3 percentage points. These results are robust to different estimation strategies and are not explained by changes in voter nor candidate behavior once an unfavorable ruling is made public. I further estimate the electoral payoff when crimes are not detected and whether voters impose differential punishment for substantial or procedural rule-breaking; while there is a significant gain in the probability of election and vote share (4.7 and 4.9 percentage points respectively) when candidates deploy substantial illegal tactics, voters impose the same electoral penalty regardless of candidates' charges. This result explains why candidates and parties would still employ illegal tactics while risking detection by the Brazilian Electoral Court.

**Keywords:** electoral politics; judicial politics; comparative politics; illegal behavior and the enforcement of law; political economy.

**JEL classification:** D72; K42; P48.

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\*Ph.D. Candidate, Department of Public Policy, The University of North Carolina at Chapel Hill. Contact details: [aassumpcao@unc.edu](mailto:aassumpcao@unc.edu).

# 1 Introduction

In democratic regimes, office-seeking politicians employ various tactics to get elected. They might promise voters more resources to increase the provision of local public goods, such as schools, hospitals, or roads; they can promote their candidacies by running ads on TV and, more recently, on social media; they might even meet with their constituents and ask for their vote based on their personal connection. While these tactics are different, sometimes complementary ways to win an election, they all characterize *play-by-the-rules* strategies, in which individuals follow legal provisions when running for office. Governments allow such electoral practices because they make electoral systems more competitive, and increase access to political office to more groups representing citizens. In this paper, however, I focus on illegal tactics to win elections and produce the first analysis of the effect of electoral crimes on ballot performance in large democratic regimes.

Scholars have not ignored these mechanisms used for winning elections. Lehoucq (2003) offers a comprehensive account of electoral fraud, which takes up a variety of forms, such as procedural rule-breaking, illegal campaigning, violence, and even unequivocal vote buying. In a more recent study, Gans-Morse et al. (2013) design a theoretical framework encompassing four types of clientelism practices (vote, turnout, and abstention buying, and double persuasion) and their adoption under five different institutional designs. They argue that the choice of illegal action is conditional on the design of electoral systems. For instance, in an environment of increased political polarization, we should expect to see more of turnout buying but less of vote buying.

Indeed, most studies looking into illegal electoral tactics have two common characteristics: first, they are largely concerned with coercive threats that prevent free and fair elections, as suggested by Mares and Young (2016); second, they focus heavily on non or partially democratic regimes, evidenced by the vast literature on electoral authoritarianism (Levitsky and Way, 2002; Gandhi and Lust-Okar, 2009; Ichino and Schündeln, 2012; Schedler, 2015; Asunka et al., 2017). This is a rich literature that helps understanding the use of elections for regime consolidation and continuity. Nevertheless, I address two unexplored issues that are supplemental to the established literature investigating electoral fraud.

The first contribution here is uncovering the effect of electoral crimes that are harder to detect or whose relationship with electoral outcomes is less known or well understood. For instance, politicians might use illegal forms of advertising or slush funds to spend beyond their campaign limits in order to win an election. Likewise, candidates and political parties might put forth candidacies for public office even if they do not meet all electoral requirements, a particular feature of Brazilian electoral law,<sup>1</sup> as a means of raising their profiles for future elections. These strategic moves are less easily understood than flat out vote buying, for example. The second contribution is precisely understanding how electoral crimes shape electoral outcomes in large democracies. Brazil is one of the top five largest democracies in the world and as such is an important research setting for understanding the use of illegal electoral tactics. Beyond just size, and despite a recent fallback, the

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<sup>1</sup>For instance, parties need to file financial records proving they are financially solid and candidates must not have been convicted of crimes at the appellate level either at the state and federal judicial systems.

quality of Brazil’s democracy makes it an important case study: since 2006, the country consistently ranks in the top 20% countries in the V-Dem Electoral Democracy Index (Coppedge et al., 2018).

Besides the electoral fraud scholarship, the present study contributes to the broader literature of political economy of development. Brazil has an unique institutional design in which the judiciary branch has an entire system of State (TRE) and Federal (TSE) electoral courts resolving electoral claims. Their mandate is to guarantee free and fair competition for public office, enforcing the Brazilian Electoral Code of 1965 and subsequent legislation, and to prevent that candidates not meeting legal requirements join electoral races. To the extent that the Electoral Courts are successful in rooting out this type of wrongdoing, we should expect more electoral accountability from office-holding politicians. Candidates would avoid illegal tactics to preserve their future career prospects. Understanding if electoral systems as such are effective should provide an important takeaway for countries sharing the same institutional design. Mexico, South Africa, and India are but a few of developing countries which also have a dedicated electoral authority similar to Brazil’s. In addition, this paper investigates another source of judiciary power beyond settling legal disputes between economic and political agents; since every political candidate in Brazil needs a judicial authorization to run for office, the Electoral Court holds an enormous amount of power in shaping up political representation – an unusual role played by judiciary branches.

Another important contribution in this study is the use of court documents as data. I collect and code judicial rulings from TRE and TSE courts on candidacies for municipal office in Brazilian elections between 2004 and 2016. For a subset of these documents, I implement a support-vector machine classification algorithm to find the exact allegations against candidates that prevent them from running for office. I split such allegations in two categories, substantial and procedural rule-breaking, to identify heterogeneous effects of electoral crime on performance for the 2012 and 2016 elections. This project forms part of a recent wave of studies using court documents to measure economic and political outcomes in development settings (Sanchez-Martinez, 2018; Lambais and Sigstad, 2018).

Using these court documents, I recover the causal effect of electoral crimes adopting an instrumental variables (IV) strategy. Since the judicial ruling on candidacies is composed of up to three instances of review, I can instrument decisions at the trial stage (first instance) for appellate decisions (second or third instance) for a subset of candidates who have untried appeals by election day. In such cases, the Brazilian electoral code establishes that candidates can be voted for, and that their votes should be counted, regardless of the charges brought against their candidacy in the first place. While the trial ruling is endogenous, e.g. potentially correlated with other factors determining electoral chances, appellate rulings issued *after* election day cannot influence electoral outcomes beyond their connection with trial decisions. Thus, for this subsample of candidates running for office who have an untried appeal standing at the time of election, I can identify the causal effect of crimes on performance.

The main IV result shows that a conviction for electoral crime reduces the probability of election and a candidate’s vote share by 23.1 and 13.3 percentage points, respectively. These estimates are

statistically significant at the one percent level and significantly differ from OLS point estimates. These results are robust to the inclusion of covariates and fixed-effects, coefficient stability tests (Oster, 2019), Monte Carlo simulations of IV parameters, and reverse causality checks. Unauthorized candidates are also significantly further away from the election threshold in both proportional (city council) and majoritarian (mayor) systems, but this effect is indistinguishable from OLS estimates. These results indicate that an unfavorable candidacy ruling negatively impacts a candidate’s chances but the actual effect size is only consistent in the probability of election and vote share estimates. Though we should be careful when comparing these results with studies looking at punishment for corruption in Brazil (Ferraz and Finan, 2008, 2011; Winters and Weitz-Shapiro, 2013), which is a more severe crime prosecuted by various other legal authorities and judicial bodies, the evidence here points to the same negative impact of (detected) illegal behavior on electoral performance.

I proceed further and test whether such illegal tactics, when undetected, have any electoral payoff. I find that candidates accused of a substantial breach of electoral law (e.g., candidates or parties have used illegal campaign strategies, channeled slush funds for campaign ads, have previous outstanding judicial convictions preventing them from running for office) increase their probability of election and vote share by about 4.8 percentage points compared to candidates accused of procedural rule-breaking. This result supports a positive electoral effect of adopting such campaign strategies. Finally, I test whether voters impose heterogeneous penalties in cases of substantial or procedural rule-breaking. I find, however, that voters are not sophisticated and do not differentiate them crime charges. Taken together, these results are an indication that candidates might risk punishment in exchange for the electoral benefit that is realized if they are not detected by the Brazilian Electoral Court.

In the remainder of this paper, I explain the institutional background allowing for causal identification in section 2, present the data in section 3, and discuss the theoretical mechanism underlying the relationship between electoral crimes and performance in section 4. Section 5 discusses the empirical strategy and section 6 presents the main results. In section 7, I investigate alternative explanations for the effect of electoral crimes on performance coming from changes in the behavior of voters, candidates, and judges. Section 8 discusses heterogeneous punishment effects. Section 9 concludes and suggests further avenues of research.

## 2 Institutional Background

The Brazilian Federal (TSE) and State Electoral Court (TRE) systems have existed intermittently since 1932 but only became institutionally relevant after the country’s return to democracy in 1985. Since then, electoral courts have a fundamental role in guaranteeing free and fair elections. Their mandate is to enforce the Electoral Code of 1965 and subsequent legislation, particularly the law establishing conditions for ineligibility to public office (1990), the Law of Political Parties (1995), the Law of Elections (1997), and the Clean Slate Act of 2010.

These courts have four main responsibilities: (i) electoral rule-making; (ii) judicial consultations clarifying and establishing jurisprudence for conflicting electoral norms; (iii) administration of the electoral process, which consists in publishing the electoral calendar, testing voting machines, distributing voting machines to all districts, counting and publishing electoral results; and, finally, (iv) conflict resolution on claims of breach of electoral law.

In this project, I am mostly interested in the courts' conflict resolution function and its underlying judicial review process. According to Brazilian Law, every individual running for office, at every level, has to submit proper documentation proving that they meet eligibility requirements for the office they are running; for instance, they should be 35 years of age or older to run for president or senator; executive-office holders, if running for any other elected office, must step down from their current post six months before election day. Every electoral cycle, the highest-level electoral court, TSE, establishes a schedule for submission of all these documents, which are reviewed at lower-level courts by electoral judges who issue rulings authorizing every single candidacy in the country. This is the main institutional feature that allows for causal identification of electoral crimes on performance.

An example helps illustrate this point. The most recent municipal elections took place on October 2, 2016. The deadline for submitting all candidacy documents was August 15, 2016. Between August 15 and September 12, electoral courts reviewed and authorized each candidacy for mayor or city councilor. The review process started at the electoral district in which the candidate is running for office, and their trial ruling comes out of the designated electoral judge for that district. These judges are part of the state court system and, when appointed to the electoral bench, are on leave from their original tenured positions at the state system.<sup>2</sup> They serve on two-year mandates, with one reappointment allowed, such that they never oversee the same district for more than one electoral cycle. If either a candidate or someone else, such as opponents or the Office of Electoral Prosecutions (MPE), files an appeal to the trial ruling, the case is presented before a panel of three judges at the state electoral court TRE. There are seven appellate court justices in each state's TRE, serving up to four-year mandates, and they are immune to local politics. In any state, six of these judges are voted in by their fellow tenured judges at the state and federal court systems and the last member is appointed by the President of Brazil. If plaintiffs or defendants are unhappy with the appellate court decision, they can appeal their case before the federal court TSE, which serves as the third and final instance of judicial review for mayor and city councilor candidates.

The September 12<sup>3</sup> date is the key institutional feature that allows observing performance for politicians who violate electoral rules. It is the last day for entering candidate information onto electronic voting (EV) machines distributed at every single polling station in the country.<sup>4</sup> All candidates who have untried appeals by this date will have their information loaded, and thus

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<sup>2</sup>In Brazil, judges are appointed to the bench in state and federal courts when they are approved in nationally-competitive entrance examinations. They are automatically tenured after a two-year trial period, therefore their entire career is independent of electoral politics.

<sup>3</sup>The exact day varies marginally every cycle. In 2018, for instance, deadline for candidacy submission was Aug 15, last day for loading candidate information was Sep 17, and election day was Oct 7.

<sup>4</sup>Fujiwara (2015) describes this technology in detail.

can be voted for, in the EV machines on election day. Because of this feature, I can observe the electoral performance of candidates who eventually are convicted of electoral crimes and compare to candidates who are cleared of similar charges. If candidates have had a final ruling before September 12, or if they have decided not to appeal their trial sentence, I cannot observe their performance because TSE will not include their information in the EV machines.

Exogenous variation in convictions for electoral crimes comes from the timing according to which appeals sentences are issued by higher-level courts. Often, the high number of candidates running for municipal office, the judicial backlog, or the conditions of a particular electoral race make it difficult for electoral courts to hand out final decisions by Sep 12. Moreover, since candidates with outstanding appeals will have their information loaded onto EV machines regardless, there is no strong incentive for courts to issue decisions between then and Oct 2. In the lead-up to election day, judges and court officials are working around the clock making sure that 540,000+ EV machines are delivered to 450,000+ voting stations across the whole territory of Brazil; judges are ruling on smaller electoral cases that might or might not be appended to candidacy cases; court officials are meeting with political parties and discussing the local electoral situation, so on and so forth. It is not uncommon, therefore, that final decisions are issued only after election day has passed, specially in municipal elections, when stakes are lower than in federal elections.

When candidate appeals are not ruled in time for elections, candidate information (picture, name, voting number) is displayed in the EV machine but their votes are computed *sub judice* – their vote count will be considered valid only when the TRE or TSE publish their final decision on any individual’s candidacy. Effectively, thus, the decisions at the appeals stage cannot affect electoral outcomes, since they are issued only after election day has passed, but they bear a strong relationship to the sentence handed out by the trial judge in each electoral district. Decisions at trial are mostly endogenous to electoral outcomes, but the use of appeals as instruments leaves out only their exogenous part – allowing for causal identification.

The primary limitation of this study is that I can only recover causal effects of electoral crimes under restrictive conditions pertaining to municipal elections in Brazil. At any other electoral race, both the trial and appeals stages are handled by the TRE and this might shape the way electoral judges issue rulings in response to the importance of the office for which a candidacy has been presented. For instance, senators are much more influential than city councilors and have a direct channel of communication with the President of Brazil, who is responsible for appointing one judge per TRE. Second, there are a number of candidates who do not appeal their trial ruling and as such do not appear on the EV machine on election day. Thus, I cannot observe their ballot performance. It is likely that these candidates are heterogeneous in many dimensions when compared to candidates who have outstanding appeals, such as their political experience, or their drive to hold elected office. These candidates should be the object of future projects measuring the effect of electoral crime on electoral performance in developing countries, and this paper inaugurates such literature.

### 3 Data

The main data source for electoral performance is TSE’s repository of electoral data. TSE publishes electoral results, vote counts, candidate’s individual characteristics, and their candidacy’s situation on election day for all elections since 1994. I focus on the municipal elections after the introduction of the EV machine in 2002 for even performance measures across elections and municipalities. My sample is composed of 9,470 candidates for mayor or city councilor who appealed, or had third-parties appealing, the trial ruling on their candidacy authorization. These candidates have been displayed in the EV device and could have been voted for on election day. Their candidacy remained pending after elections and they have only been allowed to take up office once a final ruling was issued. I create three outcome measures from TSE’s data: (1) *the probability of election*, which is a binary variable taking up value one when the candidate received enough votes to be elected. For mayor candidates, under majoritarian rule, this means 50 percent plus one of all valid votes. For city council candidates, under proportional rule, this means having received enough votes to rank amongst the most voted candidates within the designated number of vacancies for each municipality; (2) *vote share* as a share of total valid votes; (3) *vote distance to election cutoff*, which is the percentage point distance between a candidate’s vote share and the votes necessary for election. Outcomes (1) and (2) are make or break measures of electoral crime: we can use them to estimate whether a convicted candidate is predicted to win or lose an election; conditional on having won (or lost) an election, outcome (3) describes the relative safety (or damage) resulting from employing certain electoral tactic.

I scrape court documents containing the allegations against each candidate from the TSE website, which makes all their rulings public. I have developed a Python program<sup>5</sup> that downloads case file and sentences for all candidates in my sample. Though the information is public, due to data maintenance limitations at the TSE, 99.5 percent of court documents come from candidates in the 2012 and 2016 municipal elections. I match court documents to candidates using an individual identifier provided by the Electoral Court so that I can recover all documents for each candidacy.

Table 1 reports the summary statistics of the sample. The average age is 46.3 years, and the overwhelming majority of candidates facing judicial challenges is male. Nine percent of them have any political experience, captured by whether they held any other elected office in the past. These candidates have reported, on average, campaign spending amounting to R\$ 52,555. Using the current exchange rate, this is equivalent to \$15,000 per campaign. Sixty-four percent have seen an unfavorable ruling from the trial judge at their electoral district and 53.7 percent have had an unfavorable ruling after appealing their case to higher courts. Notice that all candidates have seen charges brought against them at trial, otherwise they would not have outstanding appeals by election day and would not be part of this sample; the conviction variables here, however, capture unfavorable decisions issued by trial judges. If an electoral judge allowed a candidate to run for office, then either the trial or appeals variables become zero. Though not reported in table

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<sup>5</sup>For the benefit of research transparency and replication, all programs and analysis scripts are freely available online on [GitHub](#).

1, I also collect information on candidates marital status and education.<sup>6</sup> These are categorical variables, and the most frequent marital status is married (62.6 percent) and education level is high school (30.8 percent). Finally, I report the means for the three outcomes in this analysis. The probability of election is 19.1, while candidate’s vote distance to cutoff and vote share are -4.1 and 10.1 percentage points.

## 4 Theory

Assume there are three representative agents interacting in an election: voter  $A$ , candidate  $B$ , and judge  $J$ . They each have their utility function  $f(X_c, \varepsilon_c)$  represented by a matrix of observed candidate characteristics  $X_c$  and unobserved characteristics  $\varepsilon_c$ . The former could be anything from policy positions, age, ethnicity, marital status, or campaign expenditures. A candidate’s political ability, the deals they make with parties, supporters, or sponsors are the latter. In this setting, candidates’ information is essential for determining the outcome of the election:  $A$  chooses candidates that maximize their utility  $U_A = f_A(X_c, \varepsilon_c)$ . For instance,  $A$  might prefer politically-aligned, more educated candidates because they believe these to be the most prepared candidates to take up office. Most importantly,  $A$  dislikes candidates who have a criminal record because it signals dishonesty and poor prospective political performance. This is made explicit by separating out criminal charges  $c_c$  from matrix  $X_c$  in  $A$ ’s utility function and setting the first derivative of  $f_A$  with respect to  $c_c$  to negative, as follows in equations (1) and (2):

$$U_A = f_A(X_c, c_c, \varepsilon_c) \quad (1) \quad \frac{\partial U_A}{\partial c_c} < 0 \quad (2)$$

In addition to the representative voter’s preferences, I am also interested in candidate’s  $B$  preferences.  $B$  derives utility from holding elected office and is looking to adopt strategies that will help their electoral endeavor. They cannot withhold or control certain characteristics, such as age, gender, ethnicity, but can choose amongst campaign expenditure levels (included in  $X_c$ ) and electoral strategies that will get them closer to winning an election. Some beneficial strategies are legal while others are not ( $b_c$ ), and  $B$  will adopt a mix of strategies such that the expected electoral payoff remains positive – there is a strictly positive risk of illegal strategy detection by judge  $J$ , and candidate  $B$  chooses strategies before judges authorize each political campaign.<sup>7</sup>

$$U_B = f_B(X_c, c_c, b_c, \varepsilon_c) \quad (3)$$

The focus in this paper is identifying how criminal records and illegal strategies, respectively summarized by  $c_c$  and  $b_c$ , impact a candidate’s chances of election. More specifically, I am looking

<sup>6</sup>I also have information on each candidate’s party and use it as fixed-effects in the empirical sections.

<sup>7</sup>I assume a uniform distribution of detection risk across electoral districts for the reasons laid out in section 2, guaranteeing the independence and quality of electoral judges in Brazil. Note that applications of this simple model to other jurisdictions would likely change this assumption to adjust to features of other judiciary systems.



at the effect of convictions for electoral crimes on electoral performance. The reasoning is straightforward. Voters dislike crimes and are likely to punish candidates who are found guilty of electoral code violations in the run-up to an election. This mechanism would predict a negative first derivative for  $c_c$  in equation  $\partial U_B / \partial c_c < 0$ : convictions on record hurt a candidate’s chances. Some of this effect, however, could be offset by the boost in votes that would come from illegal strategies  $b_c$ . Suppose a candidate prints and distributes negative material on their opponents. The information in the advertisement is false, and such ad is not allowed in the jurisdiction where this office race is taking place. Though judges could eventually ban such material, once the information is out it might hurt targeted opponents beyond reparation. In such hypothetical scenario, the strategy was illegal but benefited the candidate running the ad. Thus, I want to identify both effects on electoral performance.

#### 4.1 Application to the Brazilian Context

The majority of the literature in electoral crimes is concerned with more severe actions, such as fraud or vote buying (Lehoucq, 2003). This paper is an important contribution to the scholarship by looking at other, more common, and more nuanced violations to electoral rules that are particular to large democracies, such as Brazil.

As discussed in section 2, Brazil is a particularly interesting research setting because of the structure of its dedicated Electoral Court System. All candidates need an authorization from the electoral judge in their district to run for office. This decision comes out as a judicial sentence, just like in any other legal case. The responsible judge verifies a candidate’s application and issues an authorization based on compliance with electoral code. Judges check whether a candidate’s party has met all electoral requirements, whether candidates have met all criteria of the office to which they are running, and other legal provisions as established by electoral law.

By coding statutes and judicial sentences, I create two sets of reasons why someone is prevented from running for office: (1) *procedural* rule-breaking are cases in which candidates have missing documentation or other trivial action to run for office. For instance, they could have forgotten to include a copy of their ID card in their application or they could have missed a deadline in the application process; (2) *substantial* rule-breaking, which are more severe cases in which either parties or candidates are in breach of more substantial elements of electoral law. Their party might have not kept all financial records from previous elections, they might have an outstanding conviction on appeals for previous crimes, or they might have been convicted for running illegal campaign strategies against opponents. *Substantial* cases are much more likely to be connected to campaign, office, or government crimes disliked by voters, and thus are the group purposely using illegal strategies  $b_c$ . I expect the relationship between  $b_c$  and electoral performance to be positive in equation  $\partial U_B / \partial b_c > 0$ .

Moreover, these candidacy cases (called *registro de candidatura*, or candidacy registration in free translation) have standard sentences and penalties. Judges dismiss candidacies when they do not meet all requirements. There is no jail time nor immediate financial penalties for candidates

and parties. Though this might not be ideal from a policymaking perspective, it creates a subset of legal cases less susceptible to external influence and relative stability in terms the application of legal statues and convictions.<sup>8</sup>

The final hypothesis I test is whether there are heterogeneous treatment effects by conviction type. If voters are sophisticated, not only they punish candidates with unfavorable trial rulings (*the conviction effect*) but they also differentiate the punishment conditional on the crime (*the sentence type effect*). One can reasonably expect that candidates charged with more severe crimes, such as illegal campaign spending, or convicted for previous crimes, signal a more systematic criminal behavior and should be punished more harshly than candidates missing deadlines or lacking hard copies of certain documents. Though the judicial punishment is the same, the electoral punishment could still reflect the relatively more severe violations. There is substantial evidence in the literature against voter sophistication in other information contexts (Avis et al., 2018; Banerjee et al., 2010; Chong et al., 2015; de Figueiredo et al., 2011; Ferraz and Finan, 2011; Weitz-Shapiro and Winters, 2017; Winters and Weitz-Shapiro, 2013); this paper explores yet another mechanism of providing information to voters (judicial decisions) and investigates how voters react to it.

## 5 Identification Strategy

In this paper, I adopt an instrumental variables (IV) approach that allows the causal identification of the effect of electoral crime on performance. As described in section 2, I can only recover local average treatment effects (LATE) for the subsample of candidates who are charged with electoral crimes, by the trial electoral judge or third-parties, and have an outstanding appeal on their trial decision by election date. Candidates who break electoral code but are not detected are not part of this study, neither are candidates who have chosen not to appeal their trial sentence. For this sample of candidates with untried appeals on election day, I estimate the following regression model in three ways and using three different measures of electoral performance:

$$y_i = \alpha + \rho \cdot c_i + X\beta + \sum \lambda_{i,k} + \varepsilon_i \quad (4)$$

The dependent variable  $y_i$  forms are: (1) the probability of election, taking up value one when either the mayor or city council candidate had enough votes for election in their district; (2) the total vote share of candidate  $i$  received in their race; (3) the vote distance to the election cutoff, which is the percentage point margin between candidate  $i$ 's vote share and that of the single elected candidate (when running for mayor) or last elected candidate (when running for city council). Using outcome (1), I can measure the impact of crime on the most important outcome of any political

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<sup>8</sup>These cases, however, are often appended to other cases at the electoral court system and can create financial liabilities for candidates and their parties. The analysis of these cases is beyond the scope of this study as they do not meet the criteria for causal identification developed here. There is also growing interest for electoral court reform in Brazil. Some experts criticize the fact that justices do not have fixed appointments and thus do not specialize in electoral crimes; others say they that parties and candidates strategically game harsher punishments by requesting other court systems to move charges to electoral courts.

campaign, i.e. being elected; outcome (2) serves as a measure of the overall impact of crime on candidate popularity if they are found guilty by the electoral judge; the last outcome (3) tells us about the relative benefit of employing an illegal tactic when candidates are trying to secure an electoral lead or narrow in on races in which they are trailing another candidate;  $X$  is the matrix of candidate characteristics, such as candidate age, gender, marital and education status, political experience, and campaign expending;  $\sum \lambda_{i,k}$  is a set of  $k$  fixed-effects to capture any additional unobservable heterogeneity coming from party, election, and municipal factors shared by subsets of candidates.

The main independent variable is the binary indicator for convictions for electoral crime  $c_c$  at the electoral court system for candidate  $i$ . If a candidacy has been rejected by the trial judge responsible for that electoral district,  $c$  becomes one. I use convictions at trial in OLS regressions for benchmarking the effect on electoral performance; in reduced-form regressions, I replace convictions at trial for convictions on appeal – which becomes one when the candidate has seen an unfavorable ruling at higher courts within the electoral system. The reduced-form regressions hint at any potential correlation between instruments and outcomes beyond the channel via the endogenous decision at trial. I lastly estimate model (4) using two-stage least squares (2SLS) regressions, in which I instrument convictions at trial for convictions on appeal. Since I am looking at appellate court decisions issued after election day, the exclusion restriction is straightforward as the instrument is measured only *after* outcomes have been observed.<sup>9</sup> Any effect of appellate decisions only influences electoral performance via their relationship with convictions at trial. I address additional concerns about violations to the exclusion restriction in the following sections, but the baseline instrumental variables (4) and the first-stage regression equations are:

$$y_i = \alpha + \rho \cdot \hat{c}_{i,\text{trial}} + X\beta + \sum \lambda_{i,k} + \varepsilon_i \quad (5)$$

$$c_{i,\text{trial}} = \alpha + \rho \cdot c_{i,\text{appeals}} + X\beta + \sum \lambda_{i,k} + \varepsilon_i \quad (6)$$

For every specification of equations (5) and (6), I estimate versions excluding and including individual characteristics (matrix  $X$ ) and fixed-effects  $\sum \lambda_{i,k} + \varepsilon_i$ . In addition to instrument validity tests, I also report coefficient stability tests across different specifications to demonstrate that selection on unobservables is not driving coefficient estimates, as discussed in Altonji and Matzkin (2005); Nunn and Wantchekon (2011); Oster (2019); Pei et al. (2019). I discuss and test other alternative, confounding explanations in following sections and provide the empirical strategy at each stage of analysis.

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<sup>9</sup>In addition to the temporal effect, the other theoretical arguments discussed in section 2 support the exogeneity of the instrument. Electoral judges are tenured state judges which have no ties to local politicians. Their wages, career prospects, and time on electoral bench are all independent of the action of mayors and city councilors.

## 5.1 Instrument Validity Checks

The first step in this analysis is guaranteeing I have a strong instrument for the endogenous regression of interest (conviction at trial).

## 6 Results

### 6.1 Coefficient Stability Test

### 6.2 IV Parameter Simulations

## 7 Alternative Explanations

### 7.1 Heterogeneous Sentencing

### 7.2 Voter Behavior

### 7.3 Candidate Behavior

## 8 Heterogeneous Electoral Punishment

## 9 Conclusion

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## Appendix

### 9.1 Electoral Ruling Classification

## Tables and Figures

Table 1: Descriptive Statistics

	N	Mean	St. Dev.	Min	Max
Age	9,470	46.34	11.02	17	86
Male	9,470	.793	.405	0	1
Political Experience	9,470	.091	.287	0	1
Campaign Expenditures (in R\$)	9,470	52,555	210,742	0	4,949,250
Convicted at Trial	9,470	.641	.480	0	1
Convicted on Appeal	9,470	.537	.499	0	1
Probability of Election	9,442	.191	.393	0	1
Total Vote Share (in p.p.)	9,442	10.13	17.98	0	100.00
Vote Distance to Election Cutoff (in p.p.)	9,442	-4.09	9.55	-92.82	12.83

Table 2: Electoral Crime Rulings

<i>Trial</i>	<i>Appeals</i>		Percent
	Affirmed	Reversed	Reversed
Not Convicted	3380	22	0.6
Convicted	5059	1009	16.6

Table 3: First-Stage Regressions

	Outcome: Convicted at Trial		
	(1)	(2)	(3)
Convicted on Appeal	.766*** (.006)	.753*** (.007)	.738*** (.009)
Individual Controls	-	Yes	Yes
Fixed-Effects	-	-	Yes
Observations	9,470	9,470	9,470
Adjusted-R <sup>2</sup>	.633	.649	.861
F-stat	16,364.9***	1,094.0***	21.7***

*Note:* First-Stage regressions here report the correlation between being convicted at trial and being convicted on appeal for all candidates who have had their candidacy challenged under charges of electoral irregularities. I present results including and excluding individual politician characteristics; municipal, electoral, and party fixed-effects; and use robust standard errors. \*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Table 4: Hausman Test of Instrument Strength

Outcome	Hausman Statistic	p-value
1. Probability of Election	109.28	.000
2. Total Vote Share	205.57	.000
3. Vote Distance to Election Cutoff:	1.88	.170
3.1. City Councilor	65.44	.000
3.2. Mayor	93.43	.000

Figure 1: Instrument Point Estimates and CIs

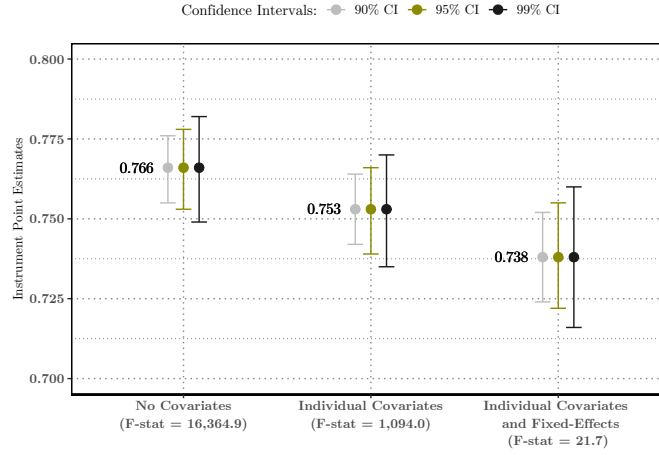


Table 5: The Effect of Electoral Crime on the Probability of Election

	Outcome: Probability of Election					
	OLS (1)	OLS (2)	OLS (3)	IV (4)	IV (5)	IV (6)
Convicted at Trial	-.208*** (.009)	-.151*** (.009)	-.163*** (.014)	-.272*** (.011)	-.213*** (.010)	-.231*** (.016)
Individual Controls	-	Yes	Yes	-	Yes	Yes
Fixed-Effects	-	-	Yes	-	-	Yes
Observations	9,442	9,442	9,442	9,442	9,442	9,442
Adjusted-R <sup>2</sup>	.065	.149	.303	.059	.143	.300
F-stat	653.58***	104.02***	2.46***	707.35***	108.9***	2.47***

*Note:* The regressions here estimate the effect of being convicted at trial on the probability of election for all candidates who have had their candidacy challenged under charges of electoral irregularities. Columns 1 and 4 display models not including individual candidate characteristics; columns 2 and 5 include age, gender, marital status, education level, political experience, and the amount spent in their campaign; columns 3 and 6 also include municipal, electoral, and party fixed-effects. I report robust standard errors for all specifications in this table. \*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Table 6: The Effect of Electoral Crime on the Total Vote Share

	Outcome: Total Vote Share (in p.p.)					
	OLS (1)	OLS (2)	OLS (3)	IV (4)	IV (5)	IV (6)
Convicted on Appeal	-12.945*** (.418)	-8.316*** (.337)	-9.943*** (.529)	-16.804*** (.478)	-11.765*** (.399)	-13.254*** (.624)
Individual Controls	-	Yes	Yes	-	Yes	Yes
Fixed-Effects	-	-	Yes	-	-	Yes
Observations	9,442	9,442	9,442	9,442	9,442	9,442
Adjusted-R <sup>2</sup>	.119	.379	.606	.109	.371	.602
F-stat	1,278.91***	361.57***	6.15***	1,360.8***	368.19***	6.14***

*Note:* The regressions here estimate the effect of being convicted at trial on the total vote share for all candidates who have had their candidacy challenged under charges of electoral irregularities. Columns 1 and 4 display models not including individual candidate characteristics; columns 2 and 5 include age, gender, marital status, education level, political experience, and the amount spent in their campaign; columns 3 and 6 also include municipal, electoral, and party fixed-effects. I report robust standard errors for all specifications in this table. \*p<0.1; \*\*p<0.05; \*\*\*p<0.01



Table 7: The Effect of Electoral Crimes on the Vote Distance to Election Cutoff

	Outcome: Vote Distance to Election Cutoff (in p.p.)			
	OLS	IV	OLS	IV
	(1)	(2)	(3)	(4)
Convicted at Trial	-.575*** (.064)	-.849*** (.075)	-5.172*** (1.905)	-7.381*** (2.184)
Individual Controls	Yes	Yes	Yes	Yes
Fixed-Effects	Yes	Yes	Yes	Yes
Sample	City Council	City Council	Mayor	Mayor
Observations	7,100	7,100	2,342	2,342
Adjusted-R <sup>2</sup>	.431	.428	.384	.382
F-stat	3.54***	1.86***	3.55***	1.85***

*Note:* The regressions here estimate the effect of being convicted at trial on the distance to the election cutoff for candidates who have had their candidacy challenged under charges of electoral irregularities. All models include individual candidate characteristics and municipal, electoral, and party fixed-effects. Since election rules differ by office type, I split the sample into city council candidates (columns 1 and 2) and mayor candidates (columns 3 and 4). I report robust standard errors for all specifications in this table. \*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Table 8: Coefficient Stability Test For Various  $R_{max}^2$ 

<i>Outcomes:</i>	Individual Covariate Models			Individual Covariate and Fixed-Effects Models		
	$\frac{R_{ur}^2 + (R_{ur}^2 - R_r^2)}{2}$	$2 \cdot R_{ur}^2$	$R^2$ for $\beta = 0$	$\frac{R_{ur}^2 + (R_{ur}^2 - R_r^2)}{2}$	$2 \cdot R_{ur}^2$	$R^2$ for $\beta = 0$
Probability of Election	2.63 (.24)	1.50 (.30)	- (.37)	3.55 (.96)	3.10 (1.00)	- (2.10)
Vote Share	1.80 (.64)	1.23 (.76)	- (.85)	7.26 (1.00)	7.26 (1.00)	- (2.73)
Vote Distance to Cutoff (City Councilor)	6.72 (.22)	5.05 (.25)	- (.75)	63.08 (1.00)	63.08 (1.00)	- (25.78)
Vote Distance to Cutoff (Mayor)	2.44 (.27)	1.23 (.35)	- (.39)	4.66 (1.00)	4.66 (1.00)	- (1.61)

Figure 2: Simulation of IV Point Estimates

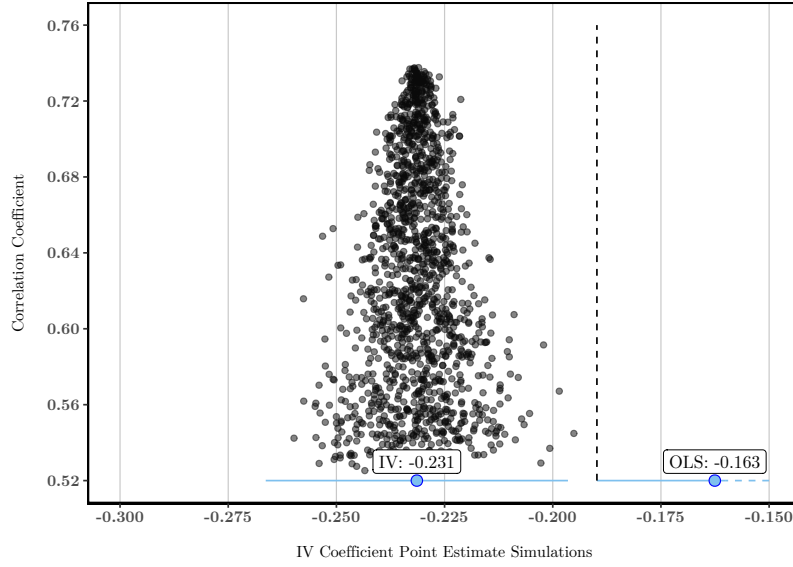


Table 9: Heterogeneous Sentencing across Trial and Appeals

	(1)	(2)	(3)	(4)	(5)	(6)
	$\beta_{\text{trial}}$	$\beta_{\text{appeals}}$	$\beta_{\text{difference}}$	s.e.	t-stat	p-value
Elected to Office	-.223	-.267	.044	.085	.510	.610
Age	-.001	.000	-.001	.003	-.424	.671
Male	.029	.022	.007	.039	.176	.861
Political Experience	-.089	-.013	-.076	.079	-.964	.335
Campaign Expenditures (ln)	-.029	-.028	-.001	.029	-.034	.973
Marital Status:						
Divorced	-.006	.026	-.032	.038	-.839	.402
Legally Divorced	.066	.028	.039	.048	.795	.427
Single	-.008	.043	-.051	.040	-1.276	.202
Widowed	.029	-.011	.040	.064	.626	.532
Educational Levels:						
Completed ES/MS	-.160	-.234	.074	.090	.819	.413
Incomplete ES/MS	-.116	-.259	.143	.134	1.066	.286
Can Read and Write	-.066	-.286	.220	.174	1.268	.205
Completed HS	-.191	-.259	.068	.085	.799	.424
Incomplete HS	-.108	-.264	.156	.132	1.180	.238
Completed College	-.218	-.300	.083	.099	.833	.405
Incomplete College	-.177	-.270	.093	.125	.742	.458

*Note:* In this table, I report the coefficients of two regressions using the same covariates on the probability of receiving an unfavorable ruling at trial (column 1) and on appeals (column 2). I then recover the distributions of the differences in betas and test  $H_0: \beta_{\text{difference}} = 0$  for all covariates in the regressions (columns 3-6). Robust standard errors are clustered at the municipal-election pair level (equivalent to the judge-level error shared by all candidates in one municipality during one election period); party-fixed effects are included in both regressions but are not reported here.

Figure 3: Instrument Correlation with Covariates

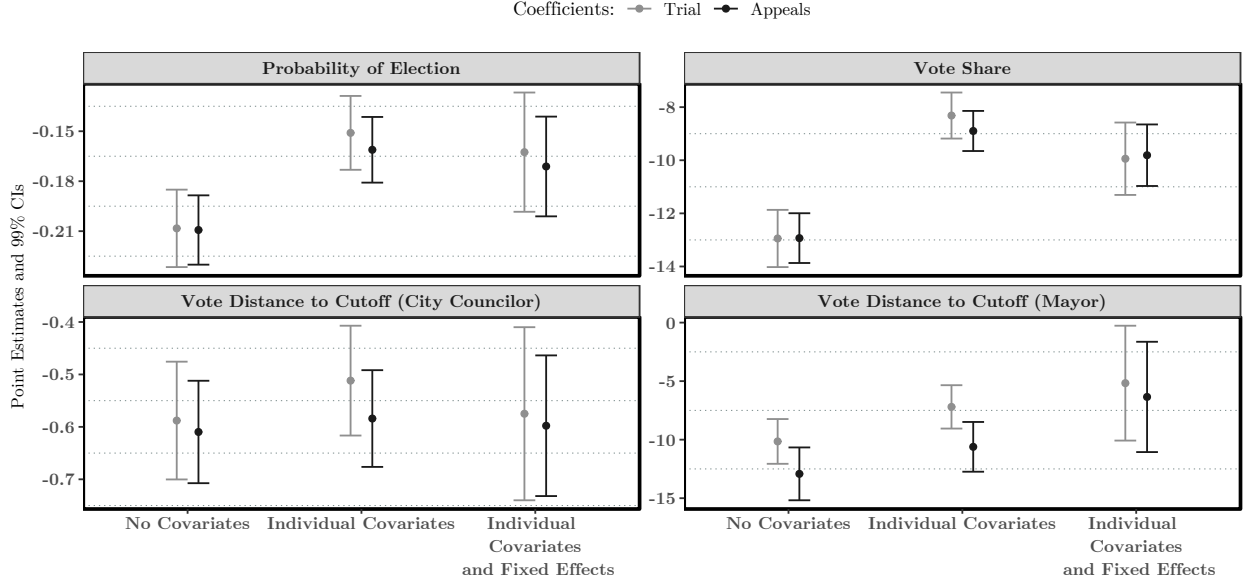


Table 10: The Effect of Electoral Crimes on Voter Engagement

	Party-Level		Election-Level	
	Outcome: Voter Turnout (percent)	Outcome: Invalid Votes (percent)	Outcome: Voter Turnout (percent)	Outcome: Invalid Votes (percent)
	(1)	(2)	(3)	(4)
Share of Candidacies Invalid at Trial	.003 (.007)	.222*** (.076)	-.001 (.009)	.134* (.070)
Individual Controls	-	-	-	-
Fixed-Effects	Yes	Yes	Yes	Yes
Observations	5,322	5,322	3,757	3,757
Adjusted-R <sup>2</sup>	.997	.973	.995	.946
F-stat	214.3***	354.1***	81.8***	124.5***

*Note:* The regressions here estimate the effect of the share of candidates convicted at trial overall the total office vacancies on voter turnout and the number of invalid votes (both logged). I aggregate observations up to the party and election level and control for municipality and election year fixed-effects. I report robust standard errors, clustered by elections and municipalities, for all specifications in this table. \*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Table 11: Campaign Expenditure Across Ruling Group

<i>Stage</i>	<i>Mean Campaign Spending in Ruling Group (in R\$)</i>		<i>t-stat</i>	<i>p-value</i>
	<i>Favorable</i>	<i>Unfavorable</i>		
Trial	84,766 [3,402]	34,497 [6,068]	9.45	.000
Appeals	73,275 [4,389]	34,658 [5,081]	8.62	.000
<i>Unfavorable Ruling</i>	<i>Affirmed</i>	<i>Reversed</i>	<i>t-stat</i>	<i>p-value</i>
Trial	34,346 [5,059]	34,527 [1,009]	-0.05	.961

*Note:* This table reports t-tests across different subsamples of candidates. The number of observations in each group is reported inside the squared brackets.

Table 12: Voter Sophistication and Benefit of Rule-Breaking

$\beta_1$ : Substantial Violation		
$\beta_2$ : Convicted at Trial $\times$ Substantial Violation	$\beta_1 = 0$	
	$\beta_2 = 0$	
	1. Violation carries no electoral benefit. 2. Voters impose same penalty for different electoral violations.	1. Violation helps candidate get elected. 2. Voters impose same penalty for different electoral violations.
	1. Violation carries no electoral benefit. 2. Voters impose harsher electoral penalties for substantial violations.	1. Violation helps candidate get elected. 2. Voters impose harsher electoral penalties for substantial violations.

Table 13: Heterogeneous Effect of Electoral Ruling

	Full Sample		City Councilor	Mayor
	Outcome: Probability of Election	Outcome: Vote Share (in p.p.)	Outcome: Vote Distance to Cutoff (in p.p.)	Outcome: Vote Distance to Cutoff (in p.p.)
	(1)	(2)	(3)	(4)
Convicted at Trial	−.176*** (.020)	−7.369*** (.719)	−.713*** (.084)	−6.653*** (2.101)
Substantial Violation	.047** (.024)	4.939*** (.723)	.089 (.103)	.169 (1.524)
Convicted at Trial × Substantial Violation	−.014 (.028)	−4.952*** (.915)	.015 (.111)	1.644 (2.562)
Individual Controls	Yes	Yes	Yes	Yes
Fixed-Effects	Yes	Yes	Yes	Yes
Observations	4,717	4,717	3,465	1,252
Adjusted-R <sup>2</sup>	.375	.697	.499	.380
F-stat	2.54***	6.84***	3.70***	1.73***

*Note:* The regressions here include the severity of the accusation brought against candidates running for municipal office. I recover the accusations from court documents and identify ruling type using linear support-vector machine classification (details in appendix 9). In columns 1-4, I report the coefficients on ruling outcome (row 1), type (row 2), and their interaction (row 3). All regressions include municipal, electoral, and party fixed-effects. Robust standard errors are displayed inside parentheses. \*p<0.1; \*\*p<0.05; \*\*\*p<0.01