

Effects of Campaign Finance Regulations on State Supreme Court Signaling*

Marcy Shieh[†]

August 5, 2022

Abstract

How do campaign finance regulations influence justices' decision to write separate opinions on the state supreme courts? Campaign finance regulations influence how justices allocate their time and resources to curry favor from voters and donors when they run for re-election. This paper examines 38 states from 1995 to 2010, and finds that as justices approach re-election, they are more likely to write a separate opinion when they live in states with fewer campaign finance regulations. This suggests that justices signal to garner voters and donors when there are looser campaign finance regulations. This signaling behavior also applies to competitive states and states where justices do not align with their constituents ideologically. Overall, justices in states with fewer campaign finance regulations draft separate opinions because they perceive that additional effort could help maximize the number of voters and donors.

*I am grateful for the comments from Paul Brace, Morgan Hazelton, Devin Judge-Lord, Adeline Lo, Ellie Powell, Ryan Owens, Jessica Schoenherr, and Alex Tahk. I also thank Hayden Coss for his research assistance.

[†]PhD Candidate at the Department of Political Science at the University of Wisconsin-Madison, mshieh2@wisc.edu

Introduction

Do campaign finance regulations influence whether judges and justices write separate opinion-writing on the state supreme courts? In seeking to explore the influence of money in judicial politics, scholars have looked at justices’ votes on cases ([Bonica and Woodruff 2015](#)), judicial recusals ([Frost 2004](#); [Sample and Pozen 2007](#); [Bassett 2015](#)), and campaign spending on judicial elections ([Bonneau 2007, 2005, 2004](#)). Scholars, however, have neglected the connection between money and one well-known method that justices use to signal: separate opinion-writing. Consider Associate Judge Charlie Baird of the Texas Court of Criminal Appeals.¹ In 1995, Judge Baird wrote 32 opinions. Then, in 1996, Texas introduced a total expenditure limit as part of its campaign finance regulations. Judge Baird went on to write 56 separate opinions in 1996—a 75 percent increase from his number of separate opinions in 1995. From 1997 to 1998, he wrote a total of 82 separate opinions as he approached re-election. Judge Baird serves an impetus for investigating how state-specific campaign finance regulations could play an important role in a justice’s decision to signal through separate opinion-writing as they approach re-election.

Separate opinions are a form of judicial signaling—a tool for justices to cue to their stakeholders with little need for compromise ([Corley 2010](#); [Black and Owens 2016](#)). Appointed justices and judges make decisions based on policy preferences, but are constrained by law ([Epstein and Knight 2013](#)). State supreme court justices and court of criminal appeals judges also make decisions based on policy preferences, but are constrained by both law and the preferences of their voters and donors. Elected judges and justices can write separate opinions without having to build a coalition like they would in a majority opinion, but they are constrained by their voters and donors.

State-level campaign finance rules dictate the re-election process. Judicial signaling is a

¹Texas and Oklahoma have two courts of last resort: a supreme court and a court of criminal appeals. The members are referred to as “judges” instead of “justices,” despite serving on the highest court in the state for criminal cases. In this paper, I will apply “state supreme court justices” and “justices” to court of appeals judges as well.

way to overcome existing restrictions or exacerbate the effect of having no restrictions. More campaign finance rules mean that justices have limited options to reach their fundraising goals for re-election. In contrast, fewer campaign finance rules mean that justices have more options. In the judicial literature, scholars have demonstrated how in the presence of constraints, such as the lack of partisan labels (Canes-Wrone, Clark, and Kelly 2014), judges and justices resort to signaling from the bench (Baird 2007; Perry 1991). In the campaign finance literature, scholars have shown that without certain rules and regulations, justices may also signal from the bench when they choose not to recuse themselves from certain cases (M. M. McCall and McCall 2006; Shepherd 2009).

Given past work from the judicial signaling and campaign finance literature, I consider two competing expectations with different mechanisms that could help explain whether more regulations or fewer regulations motivate signaling. Similar to the positive relationship between general restrictions justices face and signaling, the first expectation posits that campaign finance restrictions have a *positive* relationship with signaling from the bench as re-election approaches (M. G. Hall 2007; Kritzer 2016). When states limit justices in their campaign endeavors, justices resort to traditional forms of judicial behaviors—opinion-writing and decision-making—to get the attention of voters and donors as they get closer to re-election because they worry that institutional rules and regulations may suppress their ideological preferences (Rock and Baum 2010; Squire and Smith 1988). In other words, incumbent justices apply on-the-bench tools to circumvent obstacles that prevent them from being re-elected.

The second expectation suggests campaign finance restrictions have a *negative* relationship with signaling from the bench as re-election approaches (M. M. McCall and McCall 2006; Shepherd 2009; Barber 2016; Gilens, Patterson, and Haines 2021). This expectation argues that in the context of fewer campaign finance regulations, justices are more likely to signal from the bench to maximize their number of voters and donors because with fewer limitations, they have more time to write separate opinions and engage with potential sup-

porters who have not yet made up their minds. In essence, this expectation asserts that the reduction or absence of state-sanctioned stigma around campaign finance allows the justices to pursue openly their electoral goals using their judicial toolbox, such as participating in oral arguments, casting votes, and writing opinions.

This study finds that state supreme court justices assess whether to write separate opinions based on their state's campaign finance regulations and how close they are to re-election. Justices have a finite number of resources. Time reviewing separate opinion drafts and clerks writing and revising a separate opinion are time and resources that could have been spent on researching upcoming cases or writing opinions for other cases. While there is no need to compromise with fellow justices when writing separate opinions, justices find ways to appease their voters and donors. Results show that justices are more likely to write separate opinions when campaign finance regulations allow them to minimize fundraising time and maximize time on pandering to donors and voters who may have otherwise overlooked them.

Re-election Matters

Judicial re-election matters to the justices who want to keep their seats, and their supporters want them to stay in office for ideological reasons. First, voters and various advocacy groups recognize that re-electing state supreme court justices is consequential to many issues, especially in criminal justice cases ([Bannon, Lisk, and Hardin 2013](#)). Second, donors have a stake on who is on the court in case they or any related parties ever end up with cases on the docket ([Bannon, Lisk, and Hardin 2013](#)).

Re-election influences how state supreme court justices decide cases. Justices often vote strategically according to public opinion. For highly controversial cases, such as death penalty cases, justices look to public opinion and even suppress their own personal preferences ([M. G. Hall 1987](#)). In other words, justices may choose to side with pro-death penalty rulings even if the ruling does not reflect their true beliefs. Moreover, justices who

run in all types of elections, though more so in nonpartisan elections, are more likely to look to public opinion on the death penalty issue (Canes-Wrone, Clark, and Kelly 2014). In elected trial courts, judges are more likely to punish as they get closer to re-election (Brace and Boyea 2008). Given the evidence, all types of justices who face re-election are more likely to be “tougher on crime” to appeal to the public.

Appealing to the voters is far from the only priority of elected justices. The second priority is appealing to donors. Consider how justices rarely recuse themselves from cases involving contributors (Gibson and Caldeira 2012; Skaggs 2016). Their participation in these cases has often benefited the contributors of their campaigns (Cann 2007; Kang and Shepherd 2011). Since the cost of running judicial campaigns has increased in the past two decades, potential conflicts of interest have only become more relevant (Gibson and Caldeira 2012). To even begin a campaign, justices do not need to charm voters. Justices know that donors take priority in their pursuit of re-election.

A Theory of Overcoming Restrictions and Maximizing Returns

When justices face limitations, they resort to signaling because they want to highlight their ideological preferences to obtain voters and donors. There is some work on campaign spending on state supreme court elections (Bonneau 2007, 2005, 2004), but there is no work to my knowledge on the impact of campaign finance regulations on signaling. As such, I draw on scholarship on nonpartisan elections to consider the impact of an important limitation on signaling. Federal judges are known for signaling from the bench to achieve professional goals (Black and Owens 2016). State supreme court justices rely on partisan labels to signal to fulfill their professional goals as well (Caldarone, Canes-Wrone, and Clark 2009; Dubois 1978). Assuming that many justices act similarly with limitations, I consider the *effects* of a lack of partisan labels as generalizable to situations where justices face limitations. The

studies on judicial behavior in relation to partisanship and nonpartisanship, as I will discuss below, suggest that *more* campaign finance regulations may increase the likelihood of justices to signal more from the bench because they worry that rules and regulations obscure their ideological preferences.

Nonpartisan elections are a major limitation that many judges and justices face, as those judicial elections tend to lack voter information. Nonpartisan judges and justices are more likely to experience ballot roll-off compared to their partisan counterparts.² As a result, these nonpartisan judges and justices often resort to signaling to overcome the challenges that come with their nonpartisanship.

State supreme court justices, like many candidates in low-information elections, resort to signaling when they are up for re-election. Without the partisan label, they recognize that voters search for informational cues (Rock and Baum 2010; Squire and Smith 1988).³ From a dataset of 12,000 decisions on over 2,000 death penalty cases spanning over 25 years, Canes-Wrone, Clark, and Kelly (2014) find that state supreme court justices in states with nonpartisan ballots are more likely to uphold death penalty sentences.

On the campaign trail, justices attempt to clarify their policy views to the public through endorsements and policy announcements to make up for the lack of a party label on the ballot (Vining Jr and Wilhelm 2011; Gann Hall and Bonneau 2013). Governors and senators often endorse state supreme court candidates, appearing in TV ads supporting the candidate (Vining Jr and Wilhelm 2011). In addition, justices obtain endorsements from organizations with clear ideological leanings that sometimes air ads—and, in many instances, attack ads

²Before North Carolina changed their supreme court elections from nonpartisan to partisan in 2016, the court of appeals races had more than 450,000 votes than the supreme court race due to one difference: partisan labels for the court of appeals candidates (11/08/2016 Official General Election Results - Statewide: https://er.ncsbe.gov/?election_dt=11/08/2016&county_id=0&office=JUD&contest=0).

³To be certain, judicial candidates need to be careful with how closely they associate themselves with a partisan label, as the media target candidates who are perceived as being too friendly with their preferred political party. A news story featured criticism of former Wisconsin Supreme Court Justice Dan Kelly for having his campaign headquarters at the same address as the Republican Party of Wisconsin (Supreme Court Justice Dan Kelly renting office space at state GOP headquarters: https://madison.com/news/local/govt-and-politics/supreme-court-justice-dan-kelly-renting-office-space-at-state-gop-headquarters/article_1ff8c4c9-af9a-5bd2-ae63-41f9a28153ec.html).

against opponents—to help the justice win (M. G. Hall 2014; Salokar 2007). And, in the post-*Minnesota v. White*, 536 U.S. 765 (2002) landscape, justices can state their policy views, which mobilizes the electorate to participate in state supreme court races (Gann Hall and Bonneau 2013). The pressure to signal to voters and donors do not change once the justices are elected to the bench. The absence of partisan labels limits justices on and off the bench, but justices who serve on state supreme courts with nonpartisan selection methods often use signaling to their advantage.

When justices have freedom to act in ways that favor them, they take advantage of the opportunity because they have more latitude to maximize undecided voters and donors. Like I mentioned earlier, there is no literature to my knowledge about the impact of campaign finance regulations on signaling. As such, I draw on scholarship on judicial recusals to evaluate how justices may generally behave when they are not limited by rules and regulations.

Justices have fewer rules regulating what they can or cannot do when it comes to the question of recusal, even though there are norms that provide guidance on how they *should* act (Frost 2004; Sample and Pozen 2007; Bassett 2015). A *Wall Street Journal* investigation on 685 lawsuits between 2010 and 2018 found that more than 130 federal judges did not recuse themselves in cases involving companies that they or their family members had a financial stake.⁴ In the state supreme court context, justices contend with the expensive reality of judicial campaigning. In the 2005-2006 election cycle, pro-business groups were responsible for 44 percent of contributions to supreme court candidates, and in 2006, pro-business groups funded 90 percent of all spending by interest groups on television advertising in supreme court campaigns (Skaggs 2016). The studies on the relationship between campaign contributions, and judicial decision-making, as I will discuss below, suggest that *fewer* campaign finance regulations may increase the likelihood of justices to signal more from the bench.

Studies on the relationship between campaign contributions and judicial decision-making

⁴Federal Judges Broke the Law by Hearing Cases Where They Had a Financial Interest: https://www.wsj.com/articles/131-federal-judges-broke-the-law-by-hearing-cases-where-they-had-a-financial-interest-11632834421?mod=hp_lead_pos5

demonstrate that justices often vote favorably towards their donors. For instance, scholars find evidence in the Supreme Court of Georgia (Cann 2007), Michigan (McLeod 2007), Louisiana (Palmer and Levendis 2008), and Texas (M. McCall 2003) that justices do rule more favorably towards lawyers who contributed to their campaigns. Further, Waltenburg and Lopeman (2000) find evidence indicating that campaign contributions do influence decision-making in Alabama, Kentucky, and Ohio state supreme courts, but these effects are short-term in the sense that justices are not more or less likely to vote in favor of their contributors in the year immediately after their successful election to the court. Yet, state supreme courts are vastly different from each other. Cann (2002) and Williams and Ditslear (2007) find that in the Wisconsin Supreme Court, lawyers who make campaign contributions are not more likely to win cases than lawyers who did not make campaign contributions. While the relationship between campaign contributions and decision-making varies from state to state, most of the research shows that there is indeed a connection between campaign contributions and judicial decision-making (M. M. McCall and McCall 2006; Shepherd 2009).

The recusal literature provides insight into the mechanisms that link loose regulations and judicial behavior. Consider a context in which justices do not face numerous campaign finance regulations. In such a context, the justices may only need a few donors to provide large contributions, which would mean that they can reduce their time fundraising and increase their time writing separate opinions. Similar to how justices pander to their contributors when they do not need to recuse themselves, lower campaign finance regulations allow justices to pander to potential groups and voters in their separate opinions to reach supporters who are still on the margins.

Existing studies on campaign contributions and judicial decision-making, however, overlook how degrees of regulations influence judicial behavior. The congressional literature may be able to provide some guidance: Bonneau (2007) finds that state supreme court elections are similar to congressional and state legislatures in the sense that competition can be seen

through the lenses of candidate characteristics, state and electoral context, and institutional arrangements. Thus, there is reason to believe that insights of state legislative behavior are applicable to state supreme courts as well. In essence, state legislative scholarship has established a link between contribution and expenditure limits and legislative behavior. Contribution and expenditure limits are vital parts of campaign finance regulations because they are often at the center of debates regarding campaign finance reform. Campaigns are *regulated* in how many contributions they may accept from individuals and groups and in the amount they can expend financially. In contrast, having no contribution or expenditure limits are on par with *fewer* regulations because campaigns have more freedom to accept or spend *more* contributions.

The state legislative literature shows that contribution and expenditure limits do impact legislative behavior. Barber (2016) finds that when there are higher individual contribution limits, legislators vote in a more extreme manner. When there are higher PAC contribution limits, however, legislators vote moderately, reflecting how PACs are often less extreme than individuals. Lower limits encourage legislators to act—specifically, they *move* in one direction or the other. This movement is a signal to their donors that their contributions did, in fact, have an effect. Similarly, state legislators are influenced by changes in campaign finance regulations related to expenditure limits. After the *Citizens United* decision, states that went from having no independent corporate expenditures to having independent corporate expenditures adopted more corporate-friendly policies, such as lower corporate income taxes, while there is no evidence for policies that do not influence corporations (Gilens, Patterson, and Haines 2021). The causal evidence indicates that, holding all exogenous factors constant, relaxing campaign finance regulations moves state legislators to signal preemptively.

When justices have fewer constraints, they take advantage of the situation to maximize voters and donors. Justices often do not recuse themselves, even when their abilities to impartially judge a case are questionable. Further, the public, who should be holding justices accountable, does not have adequate knowledge to police judicial recusals properly. With

recusals, justices largely take advantage of the lack of regulations and signal to their contributors by staying on the case and ruling in their contributors' favor. When considering how justices handle degrees of regulations, I look to how state legislators handle individual changes in campaign finance regulations. The evidence from state legislative research shows that legislators maximize their benefits given their state contexts. Similarly, I expect that when state supreme court justices are faced with fewer regulations, they are more likely to signal as they approach re-election to maximize the benefits of their state institutional contexts.

Distinguishing Separate Opinion-Writing From Other Forms of Judicial Behavior

Writing a separate opinion in the form of a concurrence or dissent is costlier than other forms of judicial behavior, such as casting a vote on a case. Like most people, justices have a finite amount of time (Posner 1993). And, specific to justices, they only have a finite number of clerks. Published separate opinions may be cited, long after the justice is off the court, so it could have a lasting impact on the justice's legacy. While justices write opinions for a general audience, often only donors and policymakers pay attention to opinions (Vickrey, Denton, and Jefferson 2012; Goelzhauser and Cann 2014). Casting a vote or participating in oral arguments, on the other hand, are not as time-consuming or resource-intensive. Justices can simply cast a vote and not have to devote much time or resources to cast that vote. They do not have to write a separate opinion or even justify their vote. The vote could come with reputational risks if they vote differently from their usual ideological coalition, but justices need to first determine whether those risks are worth taking.⁵

Much of the work on separate opinion-writing focus on federal courts. In the courts of

⁵Note that some state supreme courts randomly assign their justices the majority opinion, while other state supreme courts have the chief justice assign the majority opinion. The most recent data that categorize the opinion assignment of each court are from 30 years ago, which may be out-of-date (M. G. Hall 1989).

appeals, scholars find that justices are strategic when weighing whether to write a separate opinion. Judges and justices are more likely to write separate opinions when they want to pursue policy preferences within strategic and institutional limits (Wahlbeck, Spriggs, and Maltzman 1999), when they want to critique the majority opinion in hopes of suppressing the majority opinion’s influence (Hettinger, Lindquist, and Martinek 2003), when they are up for a promotion (Black and Owens 2016). Less is known how state supreme court justices exercise their power to write a separate opinion. One can assume that state supreme court justices also consider policy preferences, their qualms about the majority opinions, and potential promotions to federal courts, but evidence from the federal courts do not explain the use of separate opinions in a re-election context. Squire (2008) finds that state supreme courts vary in their resources. For example, the Alabama Supreme Court has less than one clerk per justice, while the Pennsylvania Supreme Court has more than five clerks per justice. Moreover, Leonard and Ross (2014) find that elected judiciaries have fewer unanimous decisions and more separate opinion, suggesting that separate opinion-writing is an electoral tool. Given what they need to accomplish, justices need to determine whether spending more time and resources on separate opinions are worthwhile.

There is evidence that writing a separate opinion is time-consuming and sufficiently high-cost. Figure 1 shows that lengths of different opinion types vary. Opinions, in general, tend to be longer, followed by dissents and concurrences. From 1995 to 2010, 28,750 cases had either a dissent or a concurrence. From this subset of cases, 4.7 percent of the concurrences were longer than their majority opinions, while 15 percent of cases had longer dissents. In other words, dissents and concurrences can be just as detailed than their majority opinion counterparts.

How much work is the average concurrence and dissent compared to the average majority opinion? I look at majority opinions where a justice filed concurrences and dissents. I provide descriptive statistics in Figure 2 that compare the length of separate opinions to majority opinions included in the time frame of the study. On average, dissenting opinions are 45

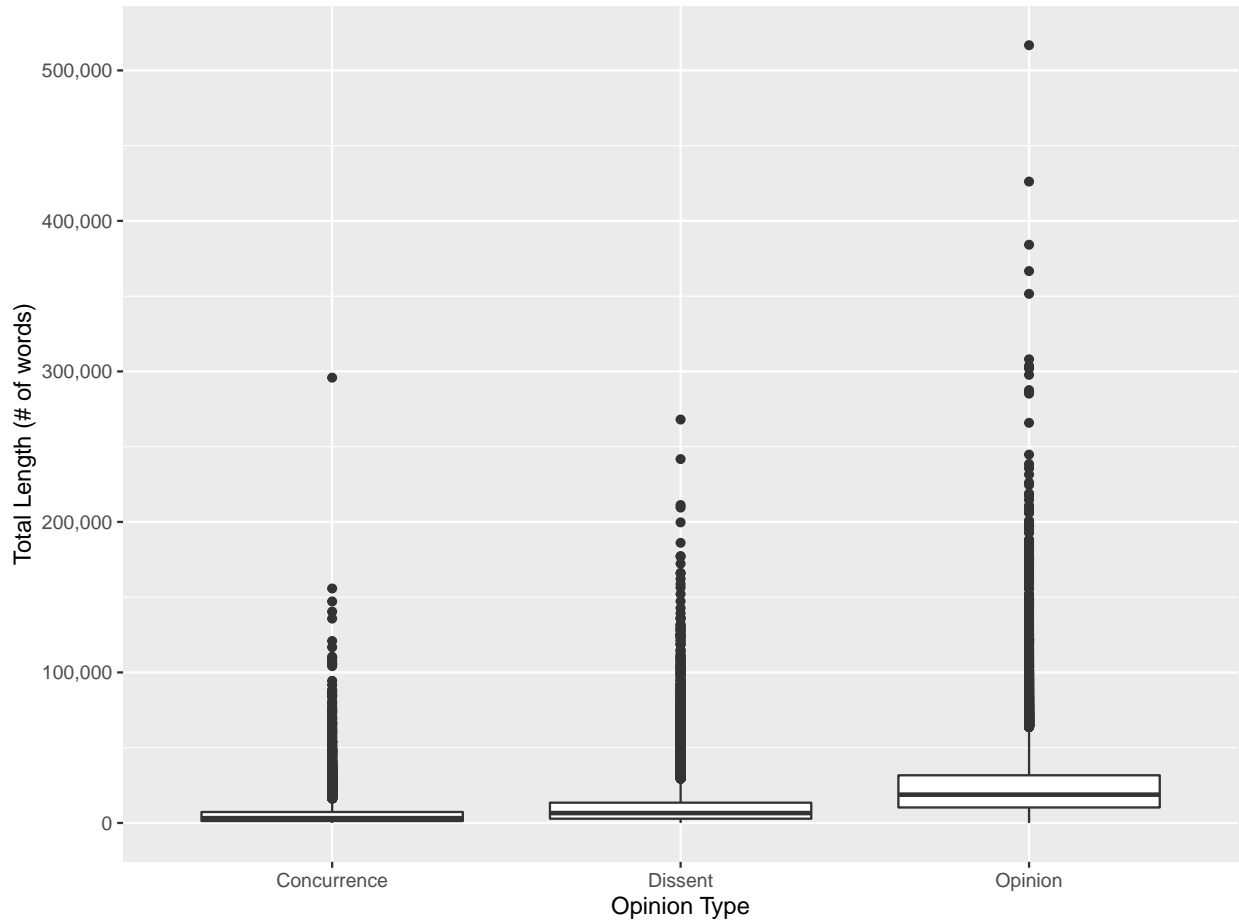


Figure 1: The total length (in number of words) for all opinion types.

percent of the length of majority opinions. And, on average, concurring opinions 25.7 percent of the length of majority opinions.

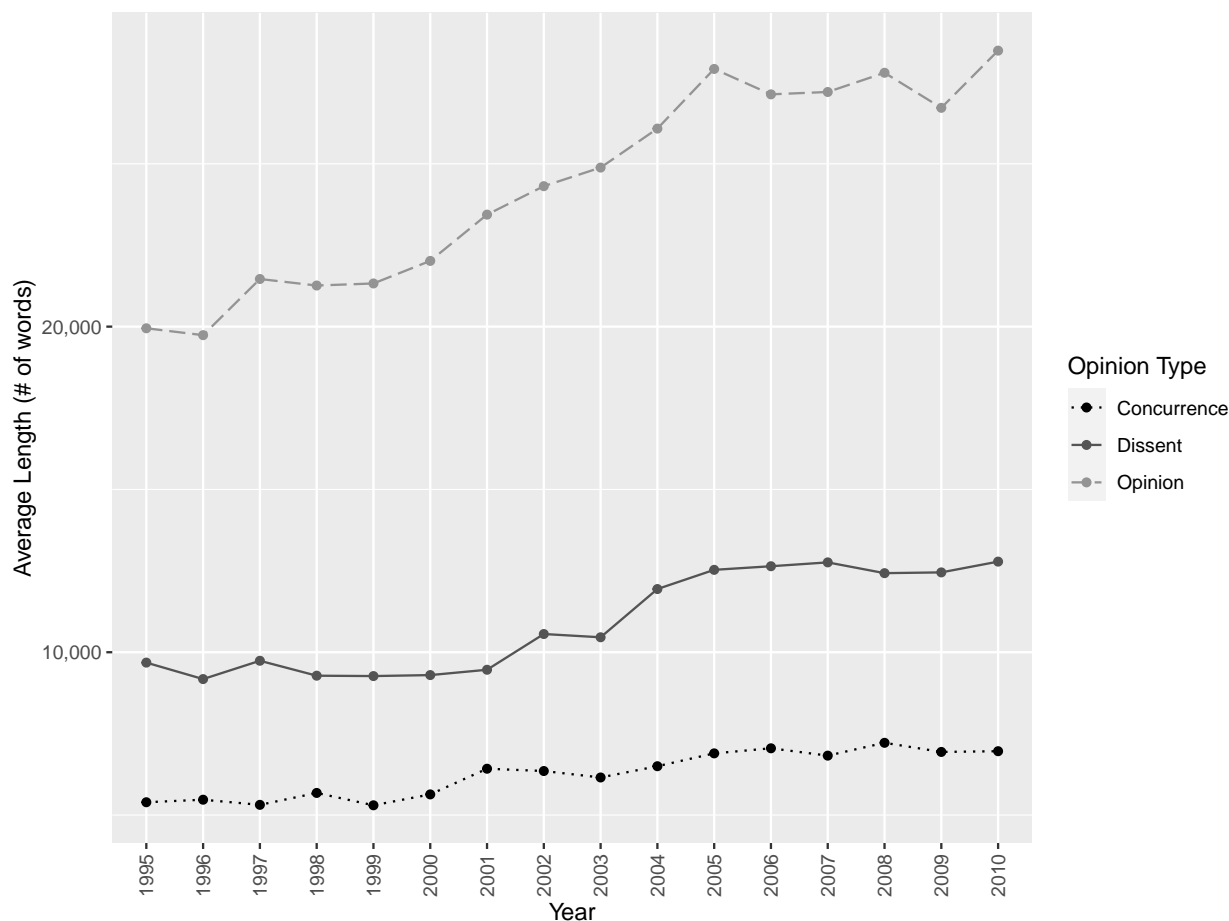


Figure 2: The average length (in number of words) for all opinion types.

These descriptive statistics indicate that, on average, a dissent takes approximately half the time it takes to write a majority opinion for the same case. Moreover, a concurrence takes approximately one-fourth of the time it takes to write a majority opinion. In general, writing dissents and concurrences is not a trivial matter and can take up a considerable amount of a justice's time and resources.

Data and Measures

This study looks at state campaign finance regulations and state supreme court decision-making in 38 states between the years of 1995 to 2010.⁶ To answer the question of *how* campaign finance regulations influence signaling, I consider high-cost signaling, which I operationalize as separate opinion-writing.

For the dependent variable—whether the justice authored a separate concurring or dissenting opinion—I use the M. E. K. Hall and Windett (2013) dataset, which contains the vote of every justice from every state supreme court from 1995 to 2010. Combined with the Windett, Harden, and Hall (2015) dataset, I also have ideology estimates from every state supreme court justice.⁷ From there, I filter to states that hold state supreme court elections. One limitation to this dataset is that it omits point estimates for cases that are unpublished or are decided unanimously. I recognize this omission in the dataset may be a problem, and future studies may be able to overcome this limitation.

I measure a high-cost signal when a justice writes a separate opinion. Separate opinions are high cost because justices need to expend resources to *write* the opinion. To create the separate opinion dependent variable, I identify every justice that the dataset indicates of having written a concurrence or dissent. This dependent variable is binary. If the justice wrote a separate opinion for a particular case, the justice’s entry for that case would be coded as “1” and “0” otherwise.

For the independent variable of campaign finance regulations, I use the Witko (2005) index of campaign finance stringency to evaluate campaign finance regulations systematically. The index identifies state statutes about campaign finance regulations to construct a measure

⁶In total, there are 40 different courts because Texas and Oklahoma have two courts of last resort—one for civil matters and another for criminal matters.

⁷M. E. K. Hall and Windett (2013) expands upon the M. G. Hall and Brace (1999) dataset, which contains hand-coded state supreme court decisions from 1995 to 1998, by using automated textual analysis methods to extract case-level information, such as legal area and opinion authors. The Windett, Harden, and Hall (2015) ideology estimates combines the dynamic item response (IRT) model from the Martin and Quinn (2002) ideology measures for U.S. Supreme Court justices and the campaign finance estimates of judicial candidates from Bonica and Woodruff (2015).

for campaign finance restrictions and contains three subindices: 1) campaign contribution limits, 2) disclosure requirements, and 3) public financing and expenditure limits.⁸ Table 1 shows campaign finance regulations that make up the stringency index.

Table 1: Campaign finance regulations that make up the stringency index.

Campaign Contribution Limits	Disclosure	Public Financing and Expenditure Limits
Contribution limits on individuals	Aggregate expenditure reporting	Total expenditure limit
Prohibition of direct corporate contributions	Aggregate contributions reporting	Check-off on tax return form for contribution to public funding
Prohibitions of direct labor union contributions	Itemization of some categories of expenditures	Independent revenue source for public financing
Limits on corporate contributions (direct or PACs)	Itemization of some categories of contributions	Public financing of statewide campaigns
Limits on union contributions (direct or PACs)	Itemization of expenditures over \$50	Public financing of state legislative campaigns
Limits on candidate self-financing	Itemization of contributions over \$50	Public financing of political parties
Limits on candidate family contributions	Requirement of final report within one month of an election	Equal distribution of public funds between candidates and/or parties
	Requirement of reports on at least a quarterly basis	
Maximum Stringency Score Possible: 22		

Campaign finance regulations have different components and their motivations attract numerous debates. Reformers argue that people with power and wealth are able to shift policies towards them and regulations help rectify this problem (Malbin and Gais 1998). Critics believe that campaign finance regulations limit speech and may make the elections less democratic (Smith 1995). Ultimately, these regulations aim to limit what candidates

⁸While every state may change their campaign finance regulation types from year to year, the most common configuration in the original Witko (2005) dataset is for a state to have all disclosure requirements except for the requirement of reports on at least a quarterly basis, which show up in Colorado in 1992-1996, New Mexico in 1992, Oregon in 1998-2004, and Washington in 1992.

and other political stakeholders can and cannot do during an election campaign.

Contribution limits. Contribution limits can help candidates win elections, but their impact on candidates once they enter office is less clear. Research on contribution limits consider how the limits influence the dynamics of the campaigns and election outcomes (Stratmann, Francisco, et al. 2006; Stratmann 2006, 2010; Eom and Gross 2007, 2006). Fewer studies look at how the limits affect behavior once the candidate enters public office.

Disclosure requirements. Research shows that disclosure requirements impact how voters perceive candidates (Wood 2018). For one, the public trusts candidates who disclose their donors because disclosure provides a sense of transparency. Dowling and Wichowsky (2013) find that the public tends to trust candidates who disclose their donors, even after being exposed to an attack ad for the candidate. The public also favors candidates who disclose several small donors (Prat et al. 2010; Ridout, Franz, and Fowler 2015).

Public finance and expenditure limits. While decades of studies have shown that public financing helps increase competitiveness of state legislative races (Donnay and Ramsden 1995; Malhotra 2008), less is known about its effects on judicial elections. In a case study of the North Carolina Supreme Court, Hazelton, Montgomery, and Nyhan (2016) find that justices who used public financing voted against attorney donors more than justices who did not use public financing. Like the contribution limits literature, there are many studies about how spending limits influence campaigns and election outcomes (Bonneau and Cann 2011; Bonneau 2007; Streb and Frederick 2011). Less is known, however, about the effect of spending on judicial behavior.

Given the literature on signaling and campaign contributions, this paper investigates two possible outcomes. One outcome is that *more* campaign finance restrictions cause more signaling from the bench as a justice gets closer to re-election. In contrast, a second possible outcome is that *less* campaign finance restrictions cause more signaling from the bench as a justice approaches re-election. This paper empirically tests which of these two outcomes reflect the behavior of justices as they consider their roles as justices and their roles as

candidates.

Figure 3 shows the states and their levels of campaign finance regulations between 1995 and 2010. It shows that Arizona had the most campaign finance regulations, while Georgia and Mississippi had the fewest.

To examine high-cost signaling, my unit of analysis is a justice-case dyad, which is the justice’s decision to write a separate opinion in a particular case. I consider the *days until re-election*, which I calculate for justices who actually ran for re-election, died in office, or retired. For those who ran for re-election, the days until re-election variable reflects their actual days until re-election. For those who died in office (only 9 justices in the dataset died in office), the variable indicates their days until re-election had they not died. For the purpose of analyses, I combined those who actually ran for re-election and those who died in office because those who died in office may have expected to run for re-election. I also log the variable to normalize the distribution, as the variable ranges from 0 to 7,839 days. As a robustness check later, I will compare the behavior of justices who retired versus justices who did not retire.

For my main variables of interest, I look at several interaction terms related to days until re-election. First, I interact the overall stringency with the logged days until re-election. Then, I interact the overall stringency with logged days until re-election and state competitiveness (Parry et al. 2022).⁹ Finally, I look at whether a justice’s ideology is congruent to the ideology of the state. I operationalize congruence by looking at whether the justice’s ideology aligns with the state’s ideology. For ideology, I use the scaled ideal points from the Windett, Harden, and Hall (2015) dataset, which has a range from -3 (liberal) to 2 (conservative). To look at the state’s ideology, I collect information on the average vote share by Democratic candidates in various state and federal offices (Parry et al. 2022). An example of a “congruent” justice would be a justice who votes conservatively and lives in a state that

⁹The folded 10-year index in Parry et al. (2022) is based on Ranney (1968), which measures party competition without considering whether it favors Democrats or Republicans. The index ranges from 1.000 (competitive) to 0.5000 (not competitive).¹⁰ “Folding” the index means to calculate the value’s absolute distance from 0.5.

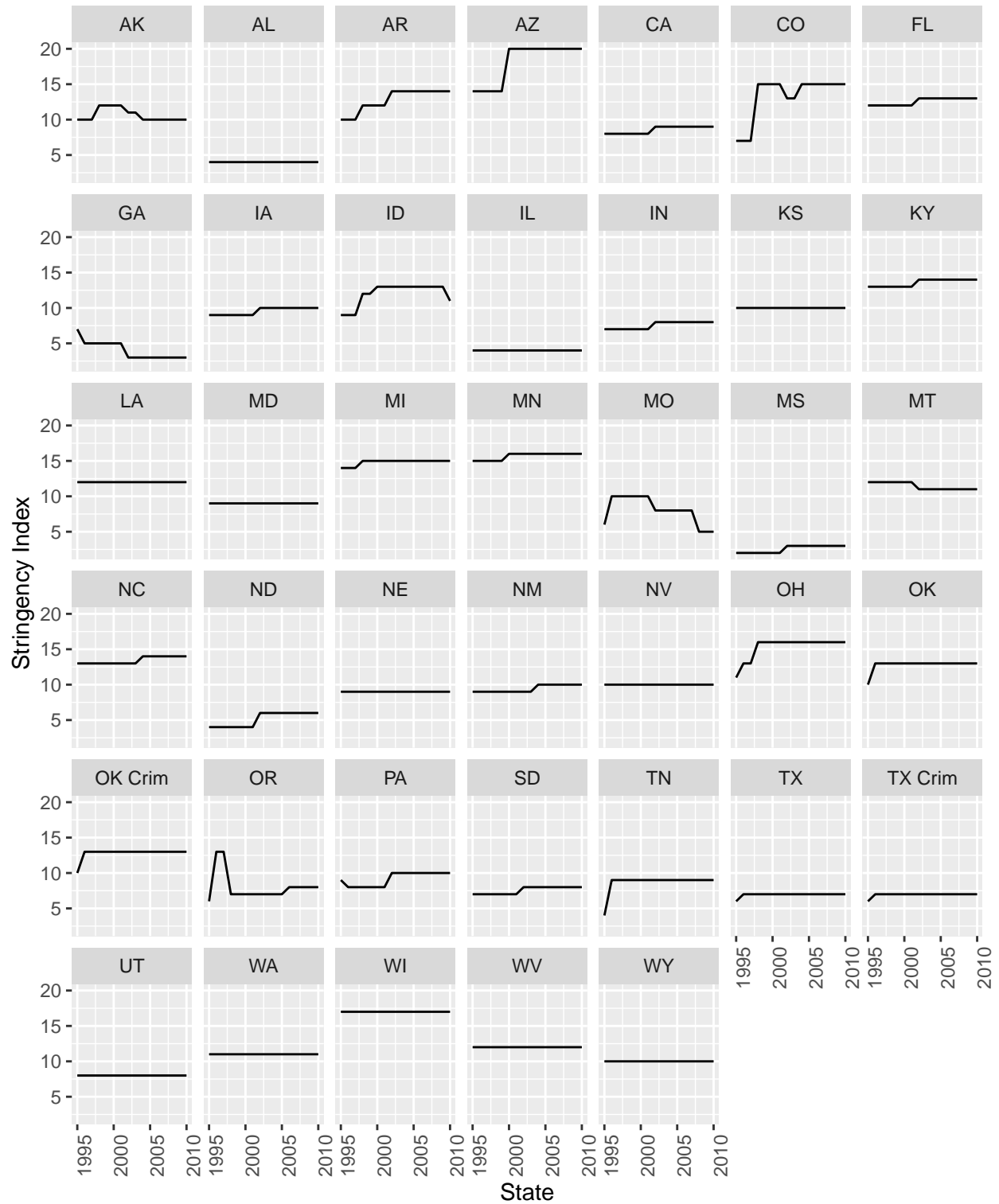


Figure 3: Stringency scores for each state with state supreme court elections from 1995 to 2010.

voted for the Republican candidate in the last presidential election. I repeat the above process with each stringency type by replacing “overall stringency” with 1) contribution limits, 2) disclosure, and 3) public finance and expenditure limits.

State-level covariates. I control for state-level covariates. I use the Judicial Elections Data Initiative (JEDI) database to code the number of contested supreme court seats a state had in a given year. In addition, I obtain state-level information about the method of selection of the court (Sorens, Muedini, and Ruger 2008), using retention elections as the baseline,¹¹ and the number of justices on the state supreme court for each year.¹² I also include information on whether the state has an intermediate appellate court and District elections, and the proportion of criminal cases.

Justice-level covariates. I control for justice-level covariates. This includes the justice’s race (Minority = 1) and gender (Female = 1).¹³

To summarize, I am interested in the effect of several interaction terms on separate opinion-writing, controlling for state- and justice-level covariates. To do this, I first look at the effect of overall stringency on separate opinion-writing as justices approach re-election. Then, I consider the effect of overall stringency on the justice’s likelihood to write a separate opinion as they approach re-election, dependent on the level of competitiveness in the state. Finally, I examine the effect of overall stringency on the justice’s likelihood of writing a separate opinion dependent on whether the justices are ideologically congruent to their state’s electorate. Additionally, I then consider the three separate types of stringency on separate opinion-writing as justices get closer to re-election. These three separate types of stringency consist of 1) contribution limits, 2) disclosure requirements, and 3) public financing and expenditure limits.

¹¹The state supreme courts with hybrid selection methods are Michigan and Ohio. Michigan currently uses nonpartisan general elections and a partisan candidate selection process. Before 2022, Ohio had partisan primaries and nonpartisan general elections, but now Ohio elects their state supreme court candidates in partisan general and primary elections.

¹²Including the number of years justices serve per term in the court and Squire and Butcher (2021) professionalization scores yield a multicollinearity issue because both variables can be linearly predicted from the number of justices on each court. Thus, I exclude both variables.

¹³There are 12.4 percent justices in the dataset who are minorities and 31 percent who are in Female.

Method and Results

I estimate the model using a generalized linear mixed-effect model (GLMM). I include controls and random effects for year, state, and justice, with justice nested within state. I examine models that consider high-cost signaling: separate opinion-writing. The results conform with the second theory, in that fewer campaign finance regulations encourage justices to write more separate opinions as they get closer to re-election. That is, as regulations decrease, justices are more likely to signal as they get closer to re-election. In contrast, when there are more campaign finance regulations, justices tend to write less separate opinions as they get closer to re-election.

For each model, I include the interaction term of campaign finance regulation types of a state and days until a justice runs for re-election.¹⁴ I examine what a one unit change in the type of regulation (adding one additional regulation) has on the probability of a justice writing a separate opinion when days until re-election is held constant at different values. To examine the probability, I present interaction plots with lines that indicate the *mean* days until re-election as well as the lines for the 25th percentile (one standard deviation below the mean) and 75th percentile (one standard deviation above the mean).

Figure 4 shows that when a state relaxes campaign finance regulations and a justice is close to re-election, they are *more* likely to author a separate opinion. In contrast, when a state adds campaign finance regulations and justices are close to re-election, they are *less* likely to author a separate opinion. Consider that the mean number of days until re-election is 1,472 days. If the justice is only 286 days away from re-election—one standard deviation below the mean—the justice is 2 percent more likely to author a separate opinion if they are in a state that only has no campaign finance regulations. If, however, the same justice is in a state with 20 regulations, they are only 0.7 percent more likely to author a separate opinion. Thus, there is a difference of 1.3 percent between being in a state with a few regulations

¹⁴Looking at the akaike information criterion (AIC) tests in the full results in Appendix A and Appendix B, the models containing control variables better represent the relationships between campaign finance regulations and the likelihood of writing a separate opinion.

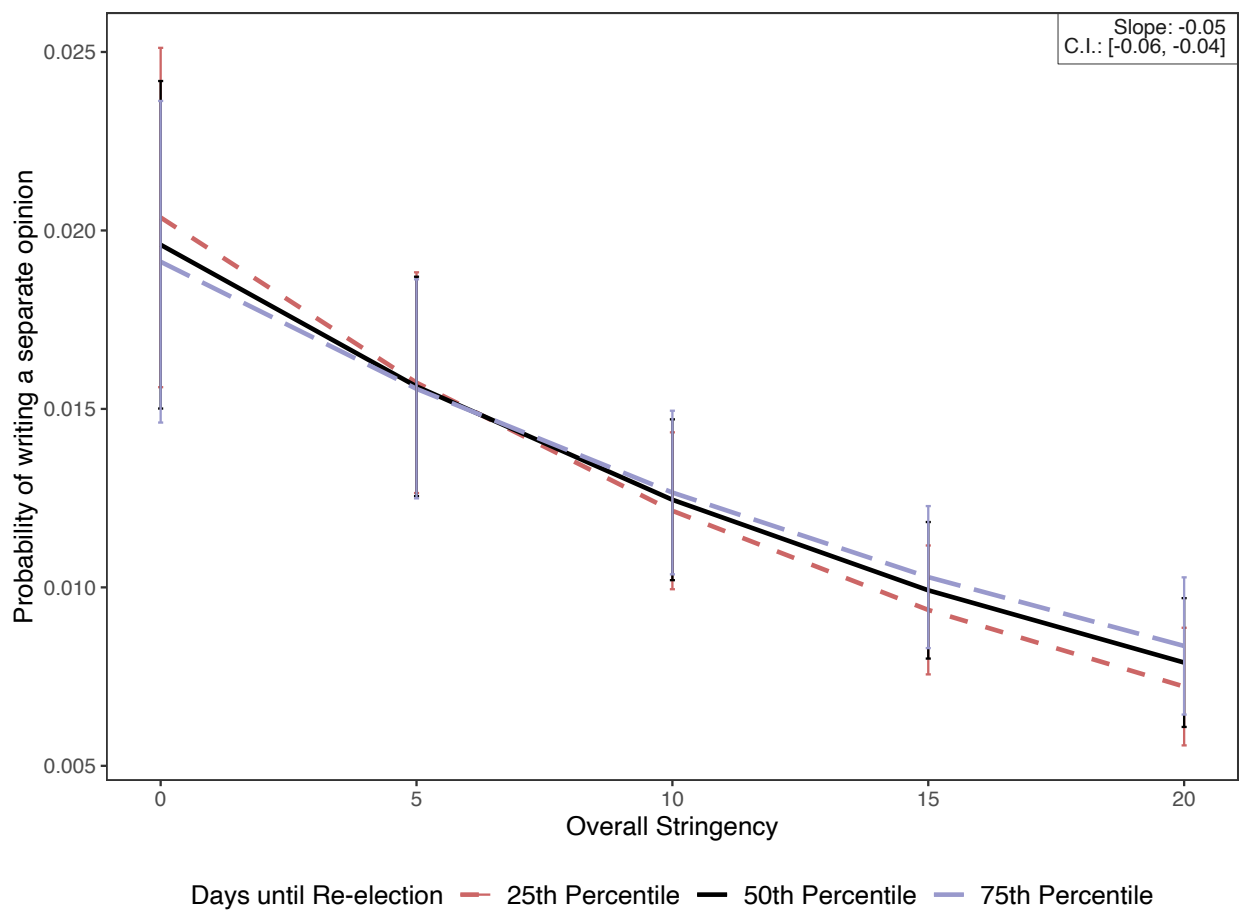


Figure 4: The effect of overall stringency on the justice's probability of writing a separate opinion as they approach re-election.

compared to a state with many regulations. In other words, when a state has fewer campaign finance regulations, a justice is more likely to author a separate opinion when it is closer to re-election. When the state has more campaign finance regulations, justices are less likely to author a separate opinion as they gets closer to re-election.¹⁵

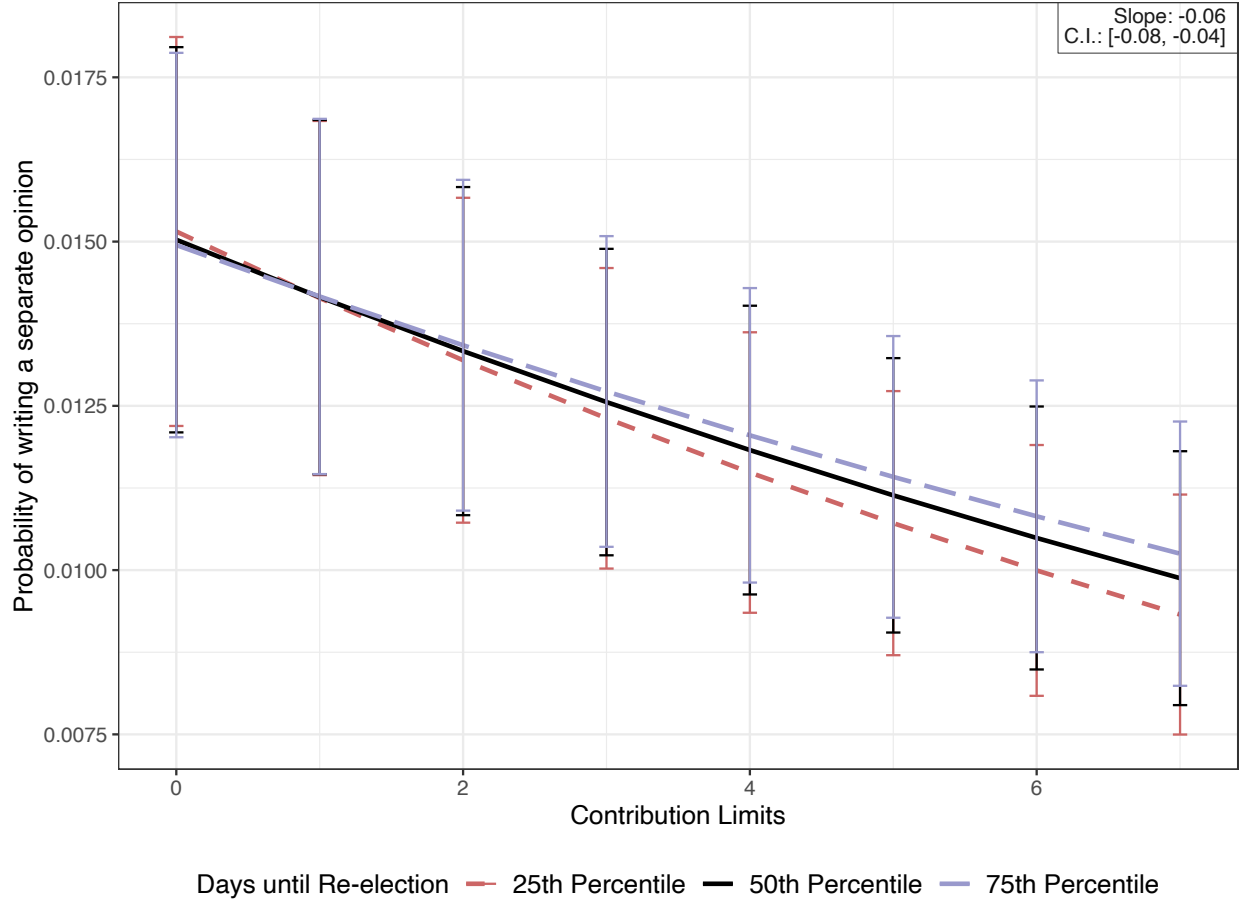


Figure 5: The effect of contribution limits on the justice’s probability of writing a separate opinion as they approach re-election.

To investigate the *type* of campaign finance regulation that drives the effect, I look at contribution limits, disclosure requirements, and public finance and expenditure limits individually. Figure 5 shows that contribution limits reflect that of the overall stringency effect. As justices approach re-election, they are more likely to signal if they live in states with no contribution limits, and less likely to signal if they live in states with every possible type of

¹⁵I discuss the results for the conditional models in the main body of the paper. Appendix A provides results for the individual variables.

contribution limit. While the probability of writing a separate opinion is lower overall for contribution limits only compared to overall stringency, the trends are quite similar.

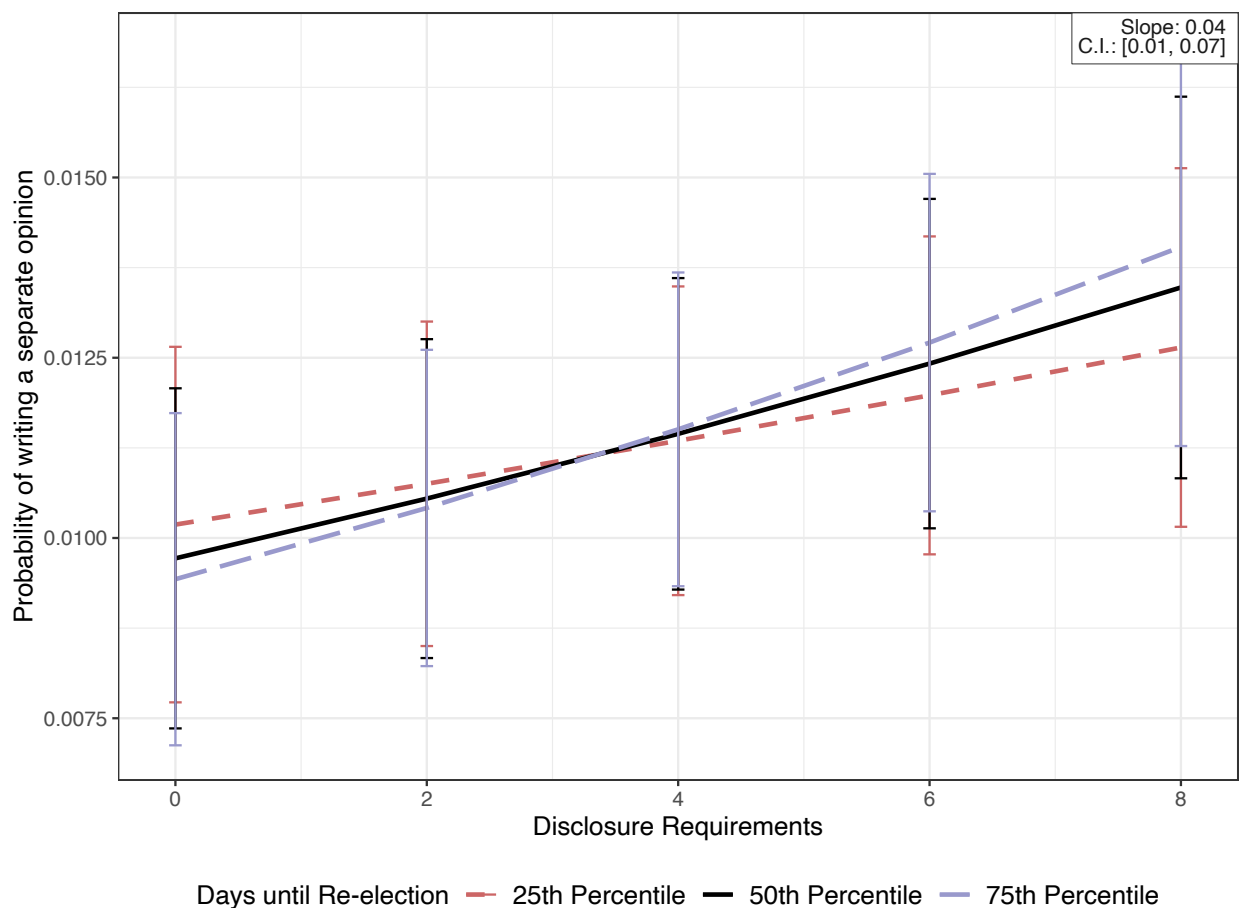


Figure 6: The effect of disclosure requirements on the justice's probability of writing a separate opinion as they approach re-election.

For disclosure requirements, the results look different from the main results. Figure 6 demonstrates that justices are more likely to signal when there are more disclosure requirements, regardless of whether they are approaching re-election. These results are a departure from the figures for overall stringency and contribution limits because in those graphs, the likelihood to signal decreases as the states add more regulations. Behavior relative to the days until re-election are similar to the other graphs, however. When justices live in states with no disclosure requirements, they are more likely to signal as they approach re-election, and when they live in states with many disclosure requirements, they are less likely to signal

as they approach re-election. What is different is that justices are more likely to signal in general if they live in states with all possible disclosure requirements compared to states where they are none.

Based on previous literature, I can speculate why the disclosure results look different from their stringency counterparts. Due to the complexity of disclosure requirements and their variance from state to state, scholars tend to overlook them (Wood 2018). When scholars examine the effects of disclosure, they find that they do impact how voters perceive candidates. Dowling and Wichowsky (2013) find that the public tends to trust candidates who disclose their donors, even after being exposed to an attack ad for the candidate. The public also favors candidates who disclose several small donors (Prat et al. 2010; Ridout, Franz, and Fowler 2015). While there are a variety of studies on how potential voters react to disclosure, less is known about how disclosure influences judicial behavior. There are some clues, though. Broadly speaking, political elites and public officials seem to believe that disclosure requirements aid the democratic process. The U.S. Supreme Court stated in *Buckley v. Valeo*, 424 U.S. 1 (1976):

“... disclosure provides the electorate with information ‘as to where political campaign money comes from and how it is spent by the candidate’ in order to aid the voters in evaluating those who seek federal office. It allows voters to place each candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches. The sources of a candidate’s financial support also alert the voter to the interests to which a candidate is most likely to be responsive and thus facilitate predictions of future performance in office.”

If judicial candidates agree with the Supreme Court’s logic on the value of disclosure information for voters in federal elections, my results illustrate the following. Justices may believe that voters could rely on disclosure information rather than case decisions. So, if there are *more* disclosure requirements, then they are less likely to write a separate opinion as they approach re-election. The reasoning here is that disclosure information is widely available to the public and that information can be used as a signal in place of separate

opinions. When justices are in states with less disclosure requirements, they signal in place of disclosing their donors.

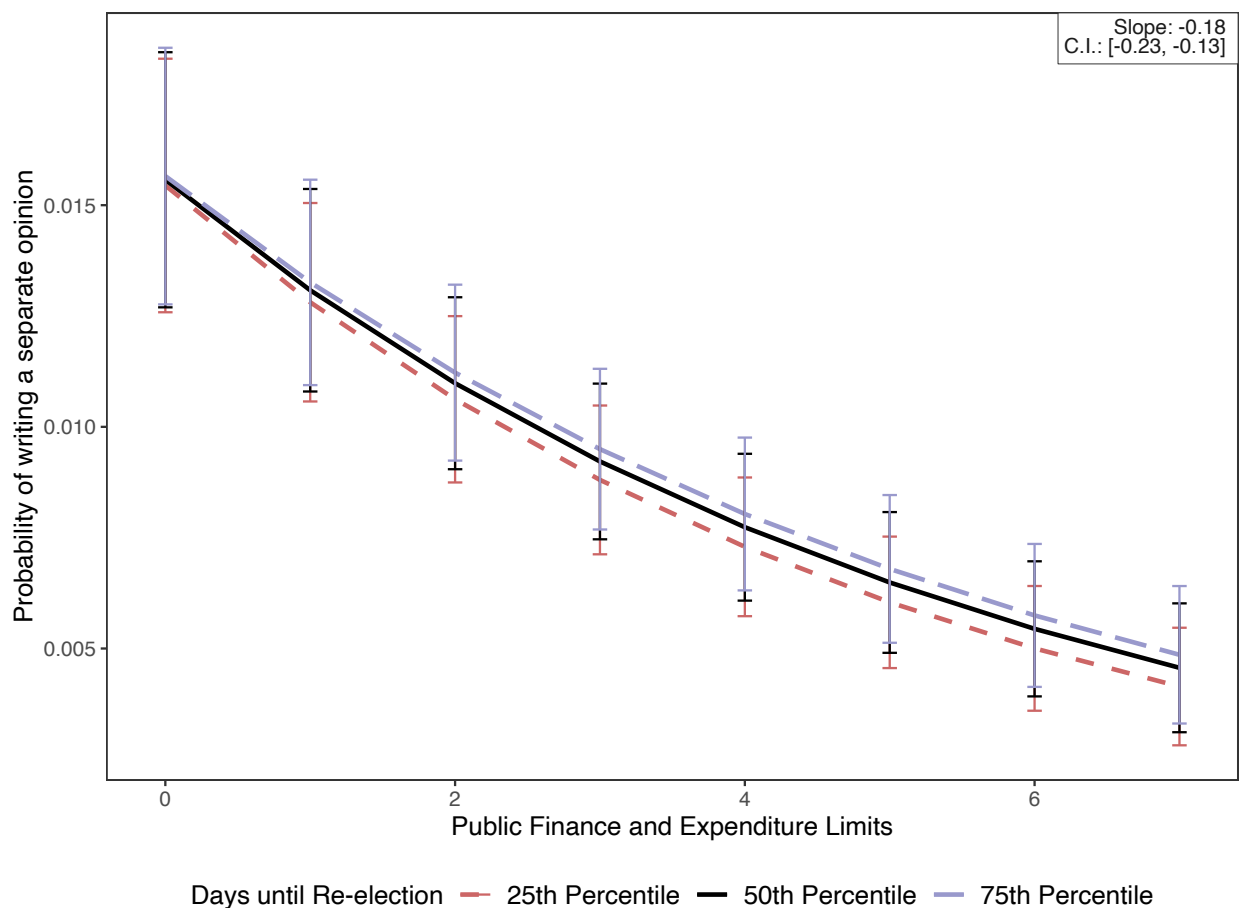


Figure 7: The effect of public finance and expenditure limits on the justice’s probability of writing a separate opinion as they approach re-election.

For public finance and expenditure limits, the results closely resemble the results for overall stringency and contribution limits. Figure 7 shows that in states where there are fewer regulations, justices are more likely to signal if they are closer to the election but are less likely to signal when they are further away from the election. However, as states increase the number of regulations, justices become less likely to signal as they get closer to the election, and more likely to signal as they get further away.

Figure 8 contains triple interaction terms where the results for competitive states largely conform to the two-way interaction terms. When I interact overall campaign finance strin-

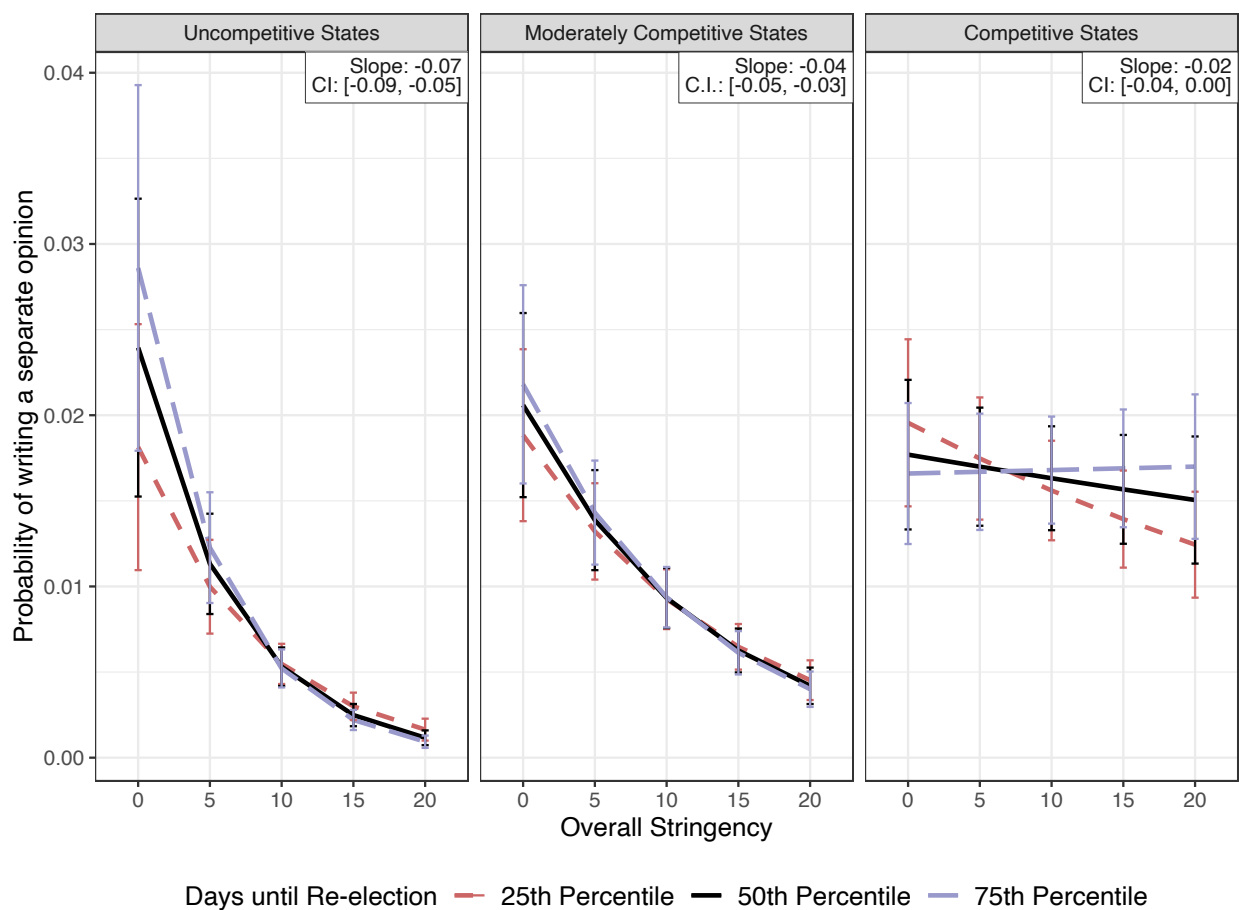


Figure 8: The effect of overall stringency on the justice's likelihood of writing a separate opinion as they approach re-election, dependent on the state's electoral competitiveness level, regardless of party.

agency and individual types of campaign finance regulations, days until re-election, and the state's overall electoral competitiveness level, I find that in competitive states, justices are more likely to signal as they get closer to re-election. In uncompetitive and moderately competitive states, however, justices are generally more likely to signal when there are fewer regulations, and less likely to signal when there are more regulations. This provides support that justices are more likely to signal when they believe that their signal can make an impact given the state context and campaign finance rules.

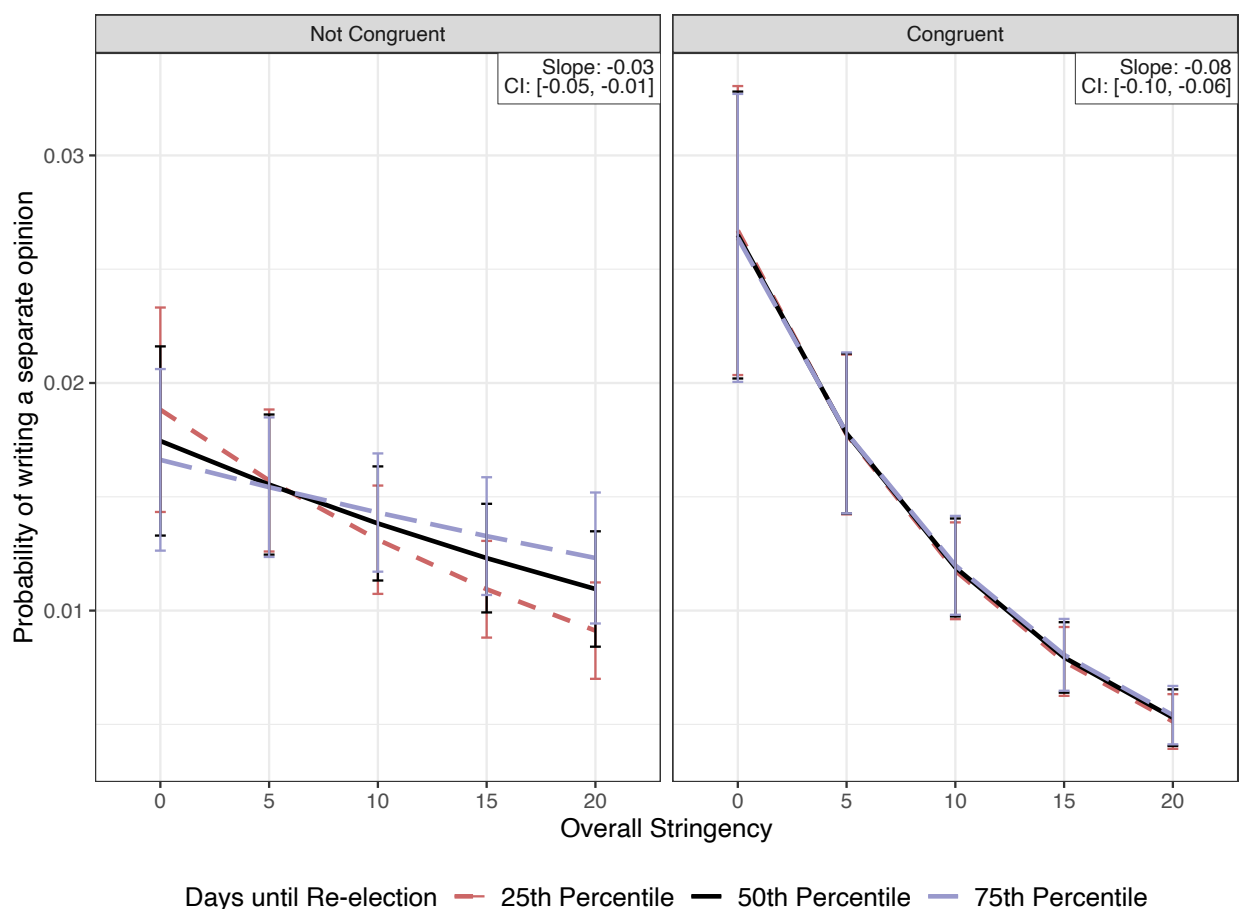


Figure 9: The effect of overall stringency on the justice's likelihood of writing a separate opinion as they approach re-election, dependent on the ideology of the justice.

Furthermore, I also find that when justices do not ideologically align with their state's voters (i.e., not congruence), they are more likely to write a separate opinion as they approach re-election if they live in a state with fewer regulations. And, when they live in states with

more regulations, they are less likely to signal as they approach re-election. In general, however, if justices align ideologically with their states' voters, they are more likely to write a separate opinion when the state has fewer regulations, and less likely to write a separate opinion has more regulations. When justices feel less electoral threat, the number of days until re-election does not impact their likelihood to write a separate opinion. In contrast, when justices are in states that they do not align with ideologically, they use the critical days leading up to re-election to court any outstanding donors and voters.

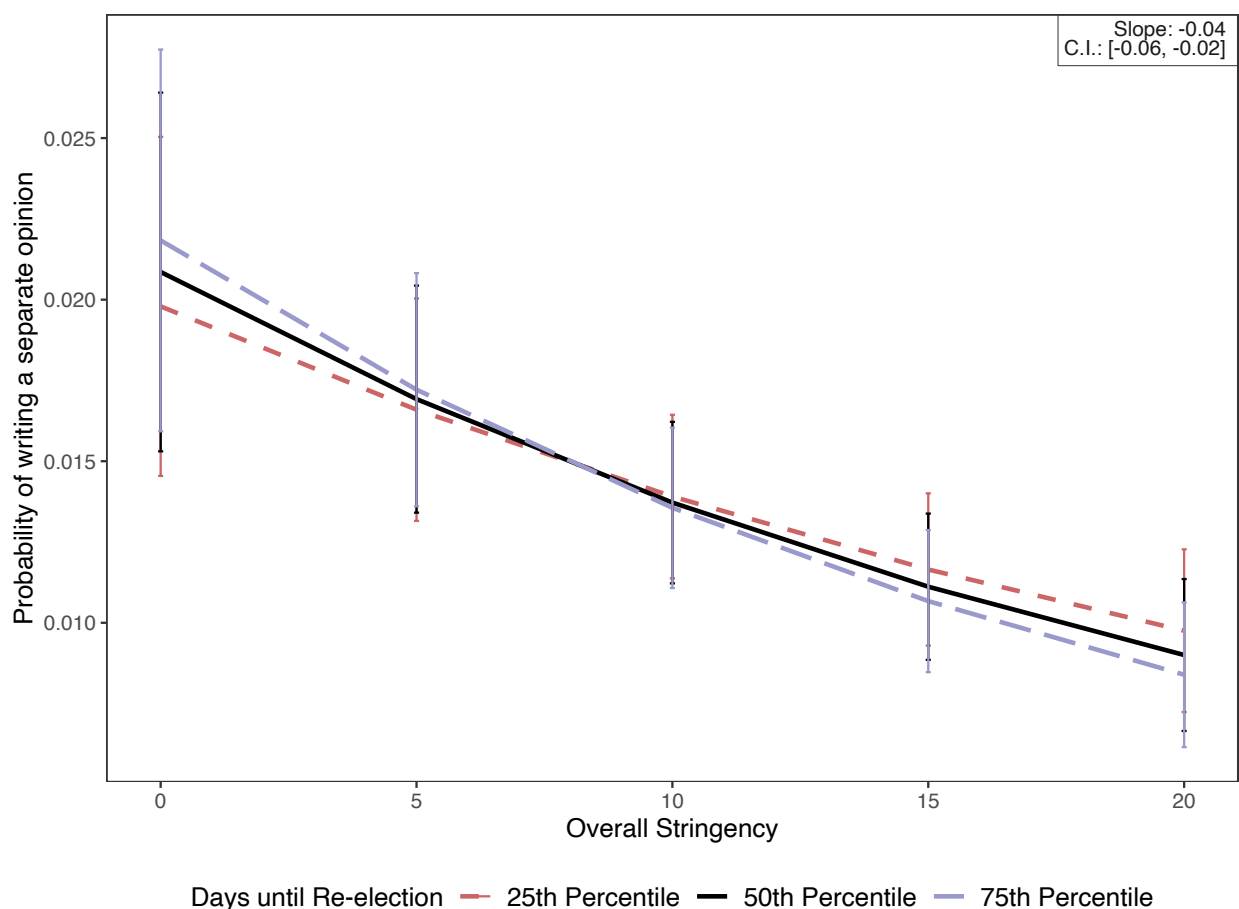


Figure 10: The effect of overall stringency on a retiring justice's probability of writing a separate opinion as they approach re-election.

The narrative of the main interaction effects change when I look at justices who retired from the bench. This should be the case because justices who plan to retire do not have to worry about re-election. Figure 10 shows that the conclusion is different when I look

at retiring justices. In Figure 4, I find that justices in states with fewer campaign finance regulations are more likely to write separate opinions as they approach re-election relative to when they are further away from re-election. In Figure 10, however, I find that justices in states with fewer campaign finance regulations are *less* likely to write separate opinions as they approach re-election compared to justices further away from re-election. The figure illustrates that, as justices get closer to their expected day of re-election, the less likely they are going to spend time writing a separate opinion. Instead of preparing for re-election, they are preparing for retirement, in which any form of signaling is moot.

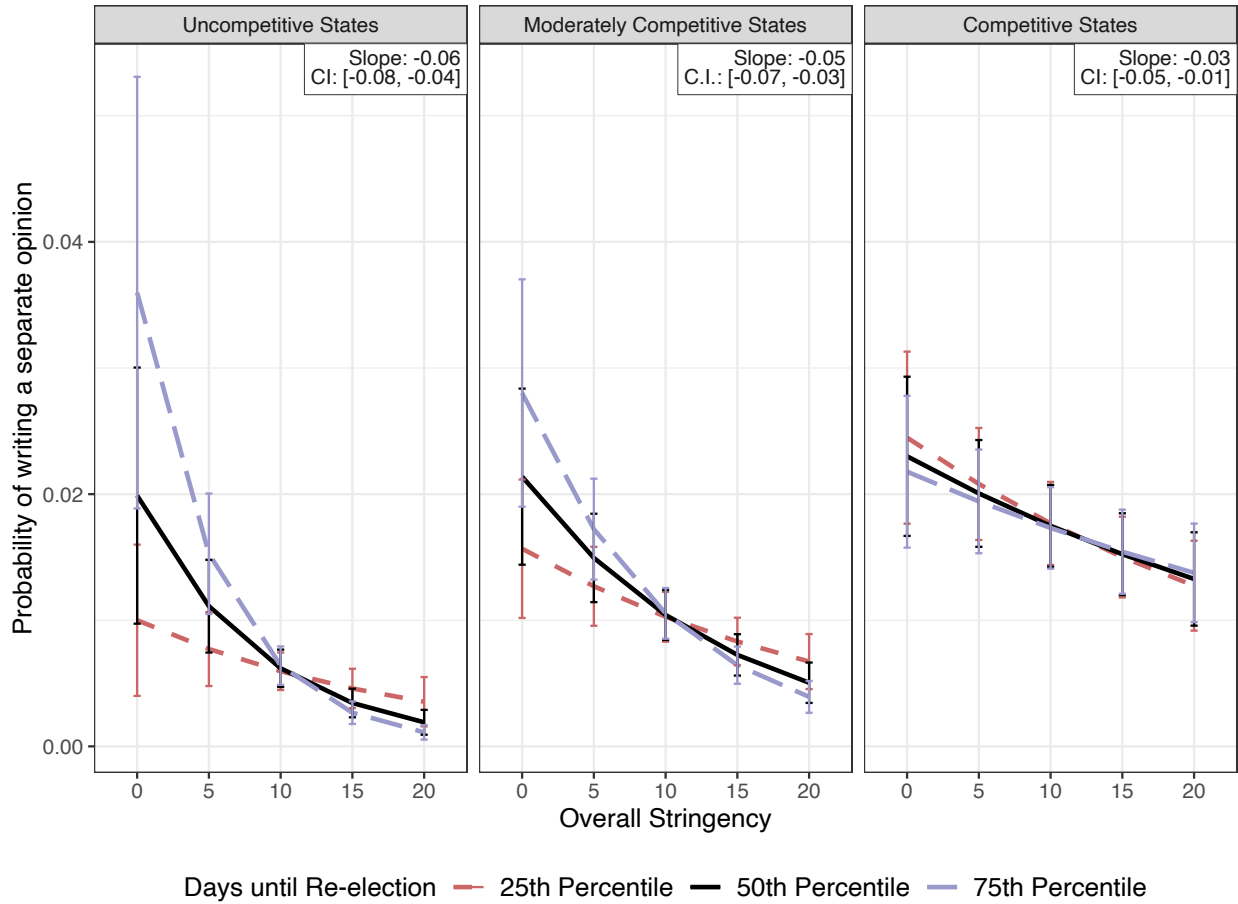


Figure 11: The effect of overall stringency on the retiring justice's likelihood of writing a separate opinion as they approach re-election, dependent on the state's electoral competitiveness level, regardless of party.

When considering the triple-interaction between overall stringency, state competitiveness,

and days until re-election, I find a diminished effect for competitive states. Figure 11 shows that there is a steeper slope for retiring justices in competitive states compared to justices running for re-election in competitive states as shown in Figure 8. The steeper slope suggests that, in competitive states, the probabilities of writing a separate opinion diminishes even when accounting for days until re-election.

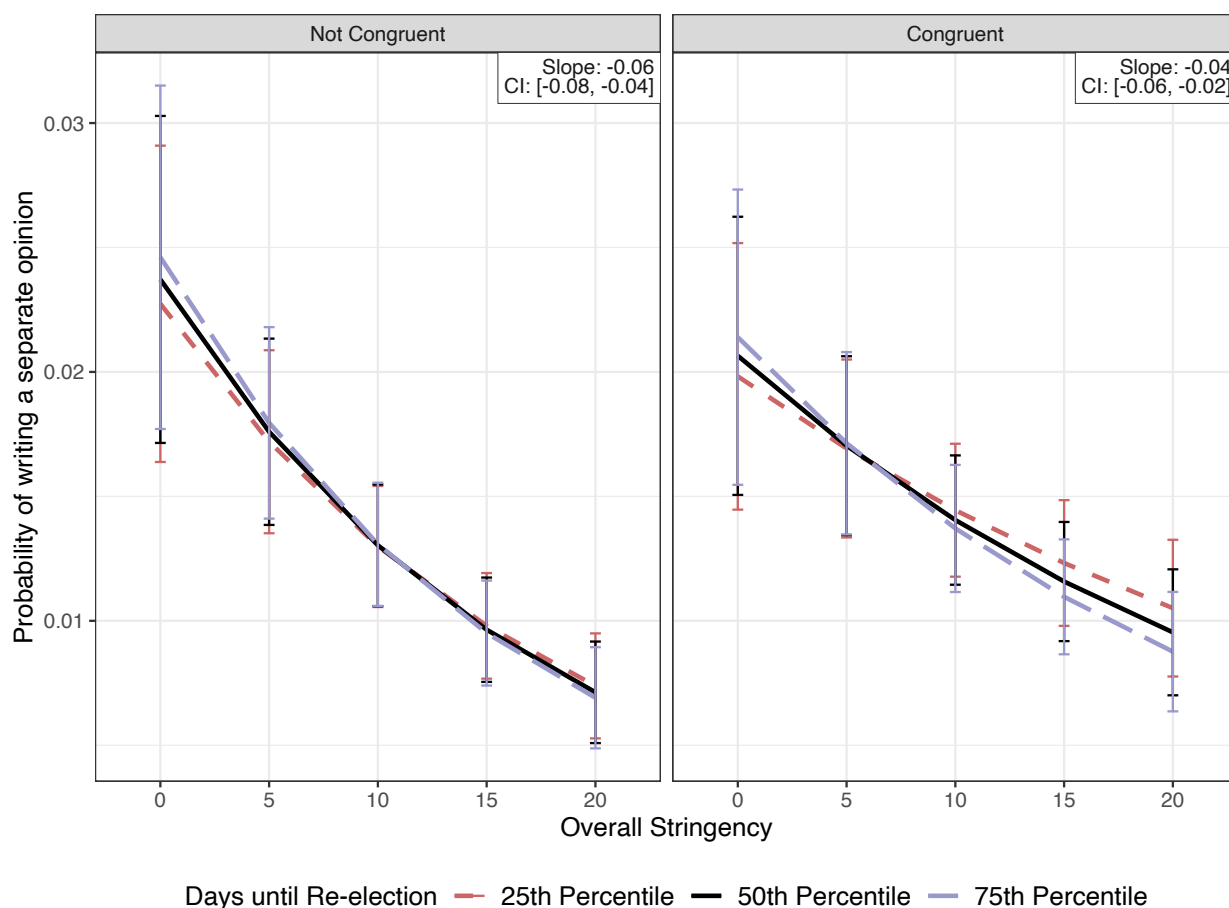


Figure 12: The effect of overall stringency on the justice's likelihood of writing a separate opinion as they approach re-election, dependent on the ideology of the justice.

Further, when I look at the triple interaction plot between overall stringency, congruence, and days until re-election, I also find a diminished effect for incongruent states. Figure 12 demonstrates a steeper slope for retiring justices in incongruent states relative to justices running for re-election in incongruent states, as displayed in Figure 9. More notably, in states where the retiring justices are not ideologically aligned with the state, these retiring

justices are less likely to signal as they get closer to re-election compared to when they are further away from re-election, indicating that as they become increasingly certain of their decision to retire, the more they would want to avoid high-cost signaling.

Discussion

Previous research portrays justices as strategic in their decision-making, often balancing between personal policy preferences and the rule of law. In this study, I examined whether judicial strategizing—signaling, specifically—can be used to win state supreme court elections. To do this, I considered whether justices engaged in high-cost signaling as they approach re-election. I did this by operationalizing high-cost signaling with separate opinions.

The results demonstrate that justices who serve in states that have different types of campaign finance regulations do behave in different ways as they approach re-election. More specifically, I find that justices in states with few regulations are more likely to write a separate opinion as they get closer to re-election. Writing a separate opinion is high-cost work, often requiring time and resources in order to achieve. When justices are in states with only a few regulations, they are more confident that their high-cost work will help them garner more votes or donors.

There are different implications for implementing more or fewer campaign finance regulations. Much of it is dependent on whether a justice runs for re-election. When justices approach re-election, they act differently than when they are further away from re-election. The results also shed light on signaling using separate opinion-writing. Justices spend time and energy on signaling when they live in states with little to no regulations. Conversely, justices prefer not to spend time and energy on signaling when they live with states with a lot of regulations because justices cannot cast a wide enough net for high-cost signals to be worthwhile. Perhaps justices engage in low-cost signaling when they want to capture *voters* on the margins. Justices know that the media, which is often the voter's source on

all things state supreme court, do not pay attention to opinion-writing, but they do focus on the justices who voted and *how* they voted.

Future research should consider related topics that are outside the scope of this paper. In this study, I look at whether changes in regulation influenced the justice's behavior, but I do not observe whether the justice's tactic worked. To answer this question, scholars can design a quasi-natural experiment that observes states that added or removed a campaign finance regulations to observe whether that influenced campaign contributions, with separate opinions as a mediator. To look at whether the justice's behavior in light of changes in regulations influence voters, one can look at the relationship between the separate opinion-writing and the amount of ballot roll-off. This study examines the relationship between campaign regulations and how the justices behave as a result, with the justices mostly operating on what they *think* voters and donors would like to see. Further research is necessary to examine whether voters and donors actually acted in the justice's favor.

The results of this study contain both good and bad news for judicial election reformers. At least in the context of state supreme court elections, more campaign finance regulations do help pare down forms of signaling that targets donors. Justices write for a public audience, but they keep political stakeholders in mind. Voters are unlikely to be aware of opinions, but potential donors and endorsers pay attention to separate opinions. With more regulations, justices are less likely to write to signal as they approach re-election. Thus, proponents of campaign finance regulations may welcome the news that more regulations do help curb signaling in re-election years compared to states with fewer regulations.

References

- Baird, Vanessa A. 2007. *Answering the Call of the Court: How Justices and Litigants Set the Supreme Court Agenda*. University of Virginia Press.
- Bannon, Alicia, Cathleen Lisk, and Peter Hardin. 2013. *Who Pays for Judicial Races?* Brennan Center for Justice at New York University School of Law.
- Barber, Michael J. 2016. “Ideological Donors, Contribution Limits, and the Polarization of American Legislatures.” *The Journal of Politics* 78 (1): 296–310.
- Bassett, Debra Lyn. 2015. “Three Reasons Why the Challenged Judge Should Not Rule on a Judicial Recusal Motion.” *NYUJ Legis. & Pub. Pol’y* 18: 659.
- Black, Ryan C, and Ryan J Owens. 2016. “Courting the President: How Circuit Court Judges Alter Their Behavior for Promotion to the Supreme Court.” *American Journal of Political Science* 60 (1): 30–43.
- Bonica, Adam, and Michael J Woodruff. 2015. “A Common-Space Measure of State Supreme Court Ideology.” *The Journal of Law, Economics, and Organization* 31 (3): 472–98.
- Bonneau, Chris W. 2004. “Patterns of Campaign Spending and Electoral Competition in State Supreme Court Elections.” *Justice System Journal* 25 (1): 21–38.
- . 2005. “What Price Justice (s)? Understanding Campaign Spending in State Supreme Court Elections.” *State Politics & Policy Quarterly* 5 (2): 107–25.
- . 2007. “The Effects of Campaign Spending in State Supreme Court Elections.” *Political Research Quarterly* 60 (3): 489–99.
- Bonneau, Chris W, and Damon M Cann. 2011. “Campaign Spending, Diminishing Marginal Returns, and Campaign Finance Restrictions in Judicial Elections.” *The Journal of Politics* 73 (4): 1267–80.
- Brace, Paul, and Brent D Boyea. 2008. “State Public Opinion, the Death Penalty, and the Practice of Electing Judges.” *American Journal of Political Science* 52 (2): 360–72.
- Caldarone, Richard P, Brandice Canes-Wrone, and Tom S Clark. 2009. “Partisan Labels and Democratic Accountability: An Analysis of State Supreme Court Abortion Decisions.”

- The Journal of Politics* 71 (2): 560–73.
- Canes-Wrone, Brandice, Tom S Clark, and Jason P Kelly. 2014. “Judicial Selection and Death Penalty Decisions.” *American Political Science Review* 108 (1): 23–39.
- Cann, Damon M. 2002. “Campaign Contributions and Judicial Behavior.” *American Review of Politics* 23: 261–74.
- . 2007. “Justice for Sale? Campaign Contributions and Judicial Decisionmaking.” *State Politics & Policy Quarterly* 7 (3): 281–97.
- Corley, Pamela C. 2010. *Concurring Opinion Writing on the US Supreme Court*. SUNY Press.
- Donnay, Patrick D, and Graham P Ramsden. 1995. “Public Financing of Legislative Elections: Lessons from Minnesota.” *Legislative Studies Quarterly*, 351–64.
- Dowling, Conor M, and Amber Wichowsky. 2013. “Does It Matter Who’s Behind the Curtain? Anonymity in Political Advertising and the Effects of Campaign Finance Disclosure.” *American Politics Research* 41 (6): 965–96.
- Dubois, Philip L. 1978. “The Significance of Voting Cues in State Supreme Court Elections.” *LAW & Soc’Y REv.* 13: 757.
- Eom, Kihong, and Donald A Gross. 2006. “Contribution Limits and Disparity in Contributions Between Gubernatorial Candidates.” *Political Research Quarterly* 59 (1): 99–110.
- . 2007. “Democratization Effects of Campaign Contribution Limits in Gubernatorial Elections.” *Party Politics* 13 (6): 695–720.
- Epstein, Lee, and Jack Knight. 2013. “Reconsidering Judicial Preferences.” *Annual Review of Political Science* 16: 11–31.
- Frost, Amanda. 2004. “Keeping up Appearances: A Process-Oriented Approach to Judicial Recusal.” *U. Kan. L. Rev.* 53: 531.
- Gann Hall, Melinda, and Chris W Bonneau. 2013. “Attack Advertising, the White Decision, and Voter Participation in State Supreme Court Elections.” *Political Research Quarterly* 66 (1): 115–26.

- Gibson, James L, and Gregory A Caldeira. 2012. "Campaign Support, Conflicts of Interest, and Judicial Impartiality: Can Recusals Rescue the Legitimacy of Courts?" *The Journal of Politics* 74 (1): 18–34.
- Gilens, Martin, Shawn Patterson, and Pavielle Haines. 2021. "Campaign Finance Regulations and Public Policy." *American Political Science Review* 115 (3): 1074–81.
- Goelzhauser, Greg, and Damon M Cann. 2014. "Judicial Independence and Opinion Clarity on State Supreme Courts." *State Politics & Policy Quarterly* 14 (2): 123–41.
- Hall, Matthew E. K., and Jason Harold Windett. 2013. "New Data on State Supreme Court Cases." *State Politics & Policy Quarterly* 13 (4): 427–45.
- Hall, Melinda Gann. 1987. "Constituent Influence in State Supreme Courts: Conceptual Notes and a Case Study." *The Journal of Politics* 49 (4): 1117–24.
- . 1989. "Opinion Assignment Procedures and Conference Practices in State Supreme Courts." *Judicature* 73: 209.
- . 2007. "Voting in State Supreme Court Elections: Competition and Context as Democratic Incentives." *The Journal of Politics* 69 (4): 1147–59.
- . 2014. "Attacking Judges." In *Attacking Judges*. Stanford University Press.
- Hall, Melinda Gann, and Paul Brace. 1999. "State Supreme Courts and Their Environments: Avenues to General Theories of Judicial Choice." *Supreme Court Decision-Making: New Institutional Approaches*, 281–307.
- Hazelton, Morgan LW, Jacob M Montgomery, and Brendan Nyhan. 2016. "Does Public Financing Affect Judicial Behavior? Evidence from the North Carolina Supreme Court." *American Politics Research* 44 (4): 587–617.
- Hettinger, Virginia A, Stefanie A Lindquist, and Wendy L Martinek. 2003. "Separate Opinion Writing on the United States Courts of Appeals." *American Politics Research* 31 (3): 215–50.
- Kang, Michael S, and Joanna M Shepherd. 2011. "The Partisan Price of Justice: An Empirical Analysis of Campaign Contributions and Judicial Decisions." *NYUL Rev.* 86:

- Kritzer, Herbert M. 2016. "Roll-Off in State Court Elections: The Impact of the Straight-Ticket Voting Option." *Journal of Law and Courts* 4 (2): 409–35.
- Leonard, Meghan E, and Joseph V Ross. 2014. "Consensus and Cooperation on State Supreme Courts." *State Politics & Policy Quarterly* 14 (1): 3–28.
- Malbin, Michael J, and Thomas Gais. 1998. *The Day After Reform: Sobering Campaign Finance Lessons from the American States*. SUNY Press.
- Malhotra, Neil. 2008. "The Impact of Public Financing on Electoral Competition: Evidence from Arizona and Maine." *State Politics & Policy Quarterly* 8 (3): 263–81.
- Martin, Andrew D, and Kevin M Quinn. 2002. "Dynamic Ideal Point Estimation via Markov Chain Monte Carlo for the US Supreme Court, 1953–1999." *Political Analysis* 10 (2): 134–53.
- McCall, Madhavi. 2003. "The Politics of Judicial Elections: The Influence of Campaign Contributions on the Voting Patterns of Texas Supreme Court Justices, 1994–1997." *Politics & Policy* 31 (2): 314–43.
- McCall, Madhavi M, and Michael A McCall. 2006. "Campaign Contributions, Judicial Decisions, and the Texas Supreme Court-Assessing the Appearance of Impropriety." *Judicature* 90: 214.
- McLeod, Aman. 2007. "Bidding for Justice: A Case Study about the Effect of Campaign Contributions on Judicial Decision-Making." *U. Det. Mercy L. Rev.* 85: 385.
- Palmer, Vernon Valentine, and John Levendis. 2008. "The Louisiana Supreme Court in Question: An Empirical and Statistical Study of the Effects of Campaign Money on the Judicial Function." *Tulane Law Review* 82 (4): 1291.
- Parry, Janine A, Andrew J Dowdle, Abigail B Long, and Jessica R Kloss. 2022. "The Rule, Not the Exception: One-Party Monopolies in the American States." *State Politics & Policy Quarterly*, 1–20.
- Perry, Hersel W. 1991. *Deciding to Decide: Agenda Setting in the United States Supreme*

- Court*. Harvard University Press.
- Posner, Richard A. 1993. "What Do Judges and Justices Maximize?(the Same Thing Everybody Else Does)." *Supreme Court Economic Review* 3: 1–41.
- Prat, Andrea, Riccardo Puglisi, James M Snyder Jr, et al. 2010. "Is Private Campaign Finance a Good Thing? Estimates of the Potential Informational Benefits." *Quarterly Journal of Political Science* 5 (3): 291–318.
- Ranney, Austin. 1968. "The Representativeness of Primary Electorates." *Midwest Journal of Political Science*, 224–38.
- Ridout, Travis N, Michael M Franz, and Erika Franklin Fowler. 2015. "Sponsorship, Disclosure, and Donors: Limiting the Impact of Outside Group Ads." *Political Research Quarterly* 68 (1): 154–66.
- Rock, Emily, and Lawrence Baum. 2010. "The Impact of High-Visibility Contests for US State Court Judgeships: Partisan Voting in Nonpartisan Elections." *State Politics & Policy Quarterly* 10 (4): 368–96.
- Salokar, Rebecca Mae. 2007. "Endorsements in Judicial Campaigns: The Ethics of Messaging." *Justice System Journal* 28 (3): 342–57.
- Sample, James, and David E Pozen. 2007. "Making Judicial Recusal More Rigorous." *Judges J.* 46: 17.
- Shepherd, Joanna M. 2009. "Money, Politics, and Impartial Justice." *Duke Law Journal*, 623–85.
- Skaggs, Adam. 2016. "Buying Justice-the Impact of Citizens United on Judicial Elections."
- Smith, Bradley A. 1995. "Faulty Assumptions and Undemocratic Consequences of Campaign Finance Reform." *Yale LJ* 105: 1049.
- Sorens, Jason, Fait Muedini, and William P Ruger. 2008. "US State and Local Public Policies in 2006: A New Database." *State Politics & Policy Quarterly* 8 (3): 309–26.
- Squire, Peverill. 2008. "Measuring the Professionalization of US State Courts of Last Resort." *State Politics & Policy Quarterly* 8 (3): 223–38.

- Squire, Peverill, and Jordan Butcher. 2021. "An Update to the Squire State Court of Last Resort Professionalization Index." *State Politics & Policy Quarterly*, 1–8.
- Squire, Peverill, and Eric RAN Smith. 1988. "The Effect of Partisan Information on Voters in Nonpartisan Elections." *The Journal of Politics* 50 (1): 169–79.
- Stratmann, Thomas. 2006. "Contribution Limits and the Effectiveness of Campaign Spending." *Public Choice* 129 (3): 461–74.
- . 2010. "Do Low Contribution Limits Insulate Incumbents from Competition?" *Election Law Journal* 9 (2): 125–40.
- Stratmann, Thomas, J Francisco, et al. 2006. "Competition Policy for Elections: Do Campaign Contribution Limits Matter?" *Public Choice* 127 (1-2): 177–206.
- Streb, Matthew J, and Brian Frederick. 2011. "When Money Cannot Encourage Participation: Campaign Spending and Rolloff in Low Visibility Judicial Elections." *Political Behavior* 33 (4): 665–84.
- Vickrey, William C, Douglas G Denton, and Wallace B Jefferson. 2012. "Opinions as the Voice of the Court: How State Supreme Courts Can Communicate Effectively and Promote Procedural Fairness." *Ct. Rev.* 48: 74.
- Vining Jr, Richard L, and Teena Wilhelm. 2011. "The Causes and Consequences of Gubernatorial Endorsements: Evidence from State Supreme Court Elections." *American Politics Research* 39 (6): 1072–96.
- Wahlbeck, Paul J, James F Spriggs, and Forrest Maltzman. 1999. "The Politics of Dissents and Concurrences on the US Supreme Court." *American Politics Quarterly* 27 (4): 488–514.
- Waltenburg, Eric N, and Charles S Lopeman. 2000. "Tort Decisions and Campaign Dollars." *Southeastern Political Review* 28 (2): 241–63.
- Williams, Margaret S, and Corey A Ditslear. 2007. "Bidding for Justice: The Influence of Attorneys' Contributions on State Supreme Courts." *Justice System Journal* 28 (2): 135–56.

- Windett, Jason H, Jeffrey J Harden, and Matthew EK Hall. 2015. “Estimating Dynamic Ideal Points for State Supreme Courts.” *Political Analysis* 23 (3): 461–69.
- Witko, Christopher. 2005. “Measuring the Stringency of State Campaign Finance Regulation.” *State Politics & Policy Quarterly* 5 (3): 295–310.
- Wood, Abby K. 2018. “Campaign Finance Disclosure.” *Annual Review of Law and Social Science* 14: 11–27.

Appendix A: Justices Who Plan to Run for Re-Election

Overall Stringency

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
(Intercept)	−3.55*** (0.29)	−13.51* (5.33)	−3.36*** (0.36)	−3.76*** (0.38)	−13.69* (5.36)	−3.56*** (0.43)
Overall String	−0.11*** (0.02)	0.78 (0.49)	−0.14*** (0.03)	−0.10*** (0.02)	0.76 (0.49)	−0.14*** (0.03)
Days until re-election (logged)	−0.05 (0.03)	1.50* (0.73)	−0.09* (0.04)	−0.05 (0.03)	1.49* (0.73)	−0.10* (0.04)
Overall String x Days until re-election (logged)	0.01** (0.00)	−0.18** (0.07)	0.02*** (0.00)	0.01** (0.00)	−0.18** (0.07)	0.02*** (0.00)
State Competitiveness		10.46 (5.62)			10.52 (5.64)	
Overall String x State Competitiveness		−0.93 (0.51)			−0.90 (0.51)	
Days until re-election (logged) x State Competitiveness		−1.62* (0.76)			−1.62* (0.77)	
Overall String x Days until re-election (logged) x State Competitiveness		0.20** (0.07)			0.19** (0.07)	
Congruence			−0.15 (0.40)			−0.20 (0.40)
Overall String x Congruence			0.04 (0.04)			0.04 (0.04)
Days until re-election (logged) x Congruence			0.08 (0.06)			0.09 (0.06)
Overall String x Days until re-election (logged) x Congruence			−0.01** (0.01)			−0.01** (0.01)
Number of Justices				0.01 (0.02)	0.01 (0.02)	0.01 (0.02)
No IAC				0.74 (0.64)	0.83 (0.63)	0.72 (0.63)
District				0.71 (0.47)	1.02* (0.51)	0.69 (0.47)
Prop of crime cases				0.30*** (0.02)	0.30*** (0.02)	0.30*** (0.02)
Hybrid				0.62 (0.78)	0.34 (0.78)	0.74 (0.78)
Nonpartisan				−0.06 (0.37)	−0.25 (0.38)	−0.04 (0.37)
Partisan				−0.21 (0.40)	−0.38 (0.41)	−0.20 (0.40)
Contested Seats				−0.01 (0.01)	−0.01 (0.01)	−0.01 (0.01)
Minority				−0.07 (0.15)	−0.08 (0.16)	−0.05 (0.15)
Female				−0.22* (0.11)	−0.22 (0.11)	−0.22 (0.11)
AIC	101993.10	100409.46	101932.50	101810.70	100227.14	101751.74
BIC	102071.48	100532.24	102055.67	102001.05	100461.53	101986.87
Log Likelihood	−50989.55	−50193.73	−50955.25	−50888.35	−50092.57	−50854.87
Num. obs.	539014	520155	539014	538709	519850	538709
Num. groups: state:justice name	391	382	391	390	381	390
Num. groups: state	40	39	40	40	39	40
Num. groups: year	16	16	16	16	16	16
Var: state:justice name (Intercept)	0.68	0.69	0.68	0.67	0.68	0.67
Var: state (Intercept)	1.08	1.14	1.07	0.99	0.98	0.99
Var: year (Intercept)	0.01	0.01	0.01	0.01	0.01	0.01

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Table 2: Regression table for model that looks at the effect of overall stringency and days until re-election on a justice’s likelihood of writing a separate opinion.

Contribution Limits

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
(Intercept)	−4.09*** (0.24)	−8.90** (3.25)	−4.06*** (0.29)	−4.30*** (0.34)	−9.07** (3.26)	−4.26*** (0.38)
Contribution Limits	−0.15*** (0.04)	1.08 (0.80)	−0.20*** (0.06)	−0.15*** (0.04)	1.02 (0.80)	−0.20*** (0.06)
Days until re-election (logged)	−0.01 (0.02)	0.46 (0.44)	−0.02 (0.03)	−0.01 (0.02)	0.46 (0.44)	−0.03 (0.03)
Contribution Limits x Days until re-election (logged)	0.01* (0.01)	−0.23* (0.11)	0.02** (0.01)	0.01* (0.01)	−0.22* (0.11)	0.02** (0.01)
State Competitiveness		5.14 (3.43)			5.20 (3.44)	
Contribution Limits x State Competitiveness		−1.31 (0.85)			−1.24 (0.85)	
Days until re-election (logged) x State Competitiveness		−0.50 (0.47)			−0.50 (0.47)	
Contribution Limits x Days until re-election (logged) x State Competitiveness		0.26* (0.12)			0.25* (0.12)	
Congruence			−0.09 (0.31)			−0.12 (0.32)
Contribution Limits x Congruence			0.08 (0.08)			0.08 (0.08)
Days until re-election (logged) x Congruence			0.04 (0.04)			0.04 (0.04)
Contribution Limits x Days until re-election (logged) x Congruence			−0.02* (0.01)			−0.02* (0.01)
Number of Justices				0.01 (0.02)	0.01 (0.02)	0.01 (0.02)
No IAC				0.79 (0.65)	0.86 (0.65)	0.79 (0.66)
District				0.73 (0.48)	1.06* (0.52)	0.73 (0.48)
Prop of crime cases				0.30*** (0.02)	0.30*** (0.02)	0.30*** (0.02)
Hybrid				0.45 (0.80)	0.24 (0.79)	0.51 (0.80)
Nonpartisan				−0.04 (0.38)	−0.25 (0.38)	−0.03 (0.38)
Partisan				−0.18 (0.41)	−0.37 (0.42)	−0.17 (0.41)
Contested Seats				−0.01 (0.01)	−0.01 (0.01)	−0.01 (0.01)
Minority				−0.07 (0.15)	−0.08 (0.16)	−0.06 (0.15)
Female				−0.23* (0.11)	−0.21 (0.11)	−0.22 (0.11)
AIC	101996.84	100426.90	101952.91	101815.24	100245.18	101772.75
BIC	102075.22	100549.69	102076.08	102005.59	100479.57	102007.89
Log Likelihood	−50991.42	−50202.45	−50965.45	−50890.62	−50101.59	−50865.38
Num. obs.	539014	520155	539014	538709	519850	538709
Num. groups: state:justice name	391	382	391	390	381	390
Num. groups: state	40	39	40	40	39	40
Num. groups: year	16	16	16	16	16	16
Var: state:justice name (Intercept)	0.68	0.69	0.68	0.67	0.68	0.67
Var: state (Intercept)	1.14	1.19	1.15	1.05	1.02	1.06
Var: year (Intercept)	0.01	0.01	0.01	0.01	0.01	0.01

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Table 3: Regression table for model that looks at the effect of contribution limits and days until re-election on a justice’s likelihood of writing a separate opinion.

Disclosure Requirements

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
(Intercept)	-4.21*** (0.30)	-2.08 (5.07)	-4.09*** (0.38)	-4.39*** (0.39)	-2.79 (5.08)	-4.26*** (0.45)
Disclosure	-0.08 (0.05)	-0.58 (0.83)	-0.12 (0.06)	-0.08 (0.05)	-0.53 (0.83)	-0.12* (0.06)
Days until re-election (logged)	-0.06 (0.03)	0.15 (0.68)	-0.09* (0.04)	-0.06* (0.03)	0.22 (0.68)	-0.10* (0.04)
Disclosure x Days until re-election (logged)	0.02** (0.01)	-0.09 (0.11)	0.03*** (0.01)	0.02** (0.01)	-0.10 (0.11)	0.03*** (0.01)
State Competitiveness		-1.83 (5.37)			-1.18 (5.37)	
Disclosure x State Competitiveness		0.47 (0.88)			0.41 (0.89)	
Days until re-election (logged) x State Competitiveness		-0.25 (0.72)			-0.33 (0.73)	
Disclosure x Days until re-election (logged) x State Competitiveness		0.13 (0.12)			0.13 (0.12)	
Congruence			0.01 (0.43)			-0.03 (0.43)
Disclosure x Congruence			0.02 (0.08)			0.03 (0.08)
Days until re-election (logged) x Congruence			0.05 (0.06)			0.05 (0.06)
Disclosure x Days until re-election (logged) x Congruence			-0.02 (0.01)			-0.02 (0.01)
Number of Justices				0.01 (0.02)	0.01 (0.02)	0.01 (0.02)
No IAC				0.76 (0.65)	0.91 (0.64)	0.75 (0.64)
District				0.80 (0.48)	1.01 (0.52)	0.76 (0.47)
Prop of crime cases				0.30*** (0.02)	0.30*** (0.02)	0.30*** (0.02)
Hybrid				0.33 (0.79)	0.10 (0.79)	0.40 (0.78)
Nonpartisan				-0.03 (0.37)	-0.20 (0.38)	-0.02 (0.37)
Partisan				-0.14 (0.41)	-0.30 (0.42)	-0.12 (0.40)
Contested Seats				-0.01 (0.01)	-0.01 (0.01)	-0.01 (0.01)
Minority				-0.06 (0.15)	-0.09 (0.16)	-0.05 (0.15)
Female				-0.22* (0.11)	-0.21 (0.11)	-0.21 (0.11)
AIC	102005.43	100397.93	101970.42	101820.99	100213.85	101787.01
BIC	102083.81	100520.71	102093.59	102011.33	100448.23	102022.15
Log Likelihood	-50995.71	-50187.96	-50974.21	-50893.49	-50085.92	-50872.51
Num. obs.	539014	520155	539014	538709	519850	538709
Num. groups: state:justice name	391	382	391	390	381	390
Num. groups: state	40	39	40	40	39	40
Num. groups: year	16	16	16	16	16	16
Var: state:justice name (Intercept)	0.69	0.70	0.69	0.68	0.69	0.68
Var: state (Intercept)	1.13	1.17	1.09	1.03	1.01	1.00
Var: year (Intercept)	0.01	0.01	0.01	0.01	0.01	0.01

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Table 4: Regression table for model that looks at the effect of disclosure requirements limits and days until re-election on a justice's likelihood of writing a separate opinion.

Public Finance and Expenditure Limits

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
(Intercept)	−4.24*** (0.20)	−8.01*** (1.76)	−4.11*** (0.23)	−4.44*** (0.30)	−8.41*** (1.77)	−4.31*** (0.32)
Public Finance	−0.29*** (0.07)	2.55* (1.10)	−0.51*** (0.10)	−0.29*** (0.07)	2.58* (1.10)	−0.50*** (0.10)
Days until re-election (logged)	0.01 (0.01)	0.07 (0.23)	−0.00 (0.02)	0.01 (0.01)	0.10 (0.23)	−0.00 (0.02)
Public Finance x Days until re-election (logged)	0.02* (0.01)	−0.40* (0.15)	0.06*** (0.01)	0.02* (0.01)	−0.40** (0.16)	0.05*** (0.01)
State Competitiveness		3.95* (1.87)			4.27* (1.87)	
Public Finance x State Competitiveness		−2.94* (1.16)			−2.97* (1.16)	
Days until re-election (logged) x State Competitiveness		−0.04 (0.25)			−0.08 (0.25)	
Public Finance x Days until re-election (logged) x State Competitiveness		0.43** (0.16)			0.43** (0.16)	
Congruence			−0.10 (0.19)			−0.11 (0.20)
Public Finance x Congruence			0.22* (0.11)			0.22 (0.11)
Days until re-election (logged) x Congruence			0.01 (0.03)			0.02 (0.03)
Public Finance x Days until re-election (logged) x Congruence			−0.05** (0.02)			−0.05** (0.02)
Number of Justices				0.01 (0.02)	0.01 (0.02)	0.01 (0.02)
No IAC				0.52 (0.62)	0.63 (0.61)	0.49 (0.62)
District				0.77 (0.45)	1.04* (0.49)	0.75 (0.46)
Prop of crime cases				0.30*** (0.02)	0.30*** (0.02)	0.30*** (0.02)
Hybrid				0.71 (0.75)	0.50 (0.75)	0.79 (0.76)
Nonpartisan				−0.02 (0.36)	−0.23 (0.36)	−0.02 (0.36)
Partisan				−0.23 (0.39)	−0.42 (0.40)	−0.22 (0.39)
Contested Seats				−0.00 (0.01)	−0.00 (0.01)	−0.00 (0.01)
Minority				−0.05 (0.15)	−0.06 (0.16)	−0.04 (0.15)
Female				−0.21 (0.11)	−0.20 (0.11)	−0.22* (0.11)
AIC	101997.45	100430.01	101961.16	101813.73	100246.33	101778.25
BIC	102075.84	100552.79	102084.34	102004.08	100480.72	102013.39
Log Likelihood	−50991.73	−50204.01	−50969.58	−50889.87	−50102.17	−50868.13
Num. obs.	539014	520155	539014	538709	519850	538709
Num. groups: state:justice name	391	382	391	390	381	390
Num. groups: state	40	39	40	40	39	40
Num. groups: year	16	16	16	16	16	16
Var: state:justice name (Intercept)	0.68	0.70	0.68	0.67	0.69	0.67
Var: state (Intercept)	0.98	1.02	1.00	0.91	0.89	0.93
Var: year (Intercept)	0.01	0.01	0.01	0.01	0.01	0.01

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Table 5: Regression table for model that looks at the effect of public finance and expenditure limits and days until re-election on a justice’s likelihood of writing a separate opinion.

Appendix B: Justices Who Retired From the Bench

Overall Stringency

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
(Intercept)	−4.55*** (0.52)	−36.97*** (9.89)	−4.25*** (0.66)	−4.82*** (0.62)	−38.16*** (9.88)	−4.56*** (0.74)
Overall String	0.05 (0.04)	2.76** (0.85)	−0.01 (0.06)	0.05 (0.04)	2.84*** (0.85)	−0.01 (0.06)
Days until re-election (logged)	0.10 (0.06)	4.33*** (1.20)	0.07 (0.08)	0.10 (0.06)	4.47*** (1.20)	0.08 (0.08)
Overall String x Days until re-election (logged)	−0.01* (0.01)	−0.41*** (0.10)	−0.01 (0.01)	−0.01* (0.01)	−0.42*** (0.10)	−0.01 (0.01)
State Competitiveness		34.10*** (10.29)			35.19*** (10.28)	
Overall String x State Competitiveness		−2.85** (0.89)			−2.94*** (0.89)	
Days until re-election (logged) x State Competitiveness		−4.44*** (1.25)			−4.59*** (1.25)	
Overall String x Days until re-election (logged) x State Competitiveness		0.42*** (0.11)			0.43*** (0.11)	
Congruence			−0.17 (0.81)			−0.12 (0.81)
Overall String x Congruence			0.07 (0.08)			0.06 (0.08)
Days until re-election (logged) x Congruence			0.00 (0.10)			−0.00 (0.10)
Overall String x Days until re-election (logged) x Congruence			−0.01 (0.01)			−0.01 (0.01)
Number of Justices				0.02 (0.04)	0.01 (0.04)	0.02 (0.04)
No IAC				0.64 (0.63)	0.73 (0.62)	0.66 (0.64)
District				0.72 (0.46)	0.97 (0.50)	0.72 (0.47)
Prop of crime cases				0.21*** (0.03)	0.21*** (0.03)	0.21*** (0.03)
Hybrid				0.78 (0.77)	0.58 (0.76)	0.81 (0.78)
Nonpartisan				−0.18 (0.37)	−0.36 (0.37)	−0.18 (0.37)
Partisan				−0.12 (0.40)	−0.32 (0.41)	−0.14 (0.41)
Contested Seats				−0.00 (0.01)	0.00 (0.01)	−0.00 (0.01)
Minority				−0.02 (0.17)	−0.03 (0.17)	−0.03 (0.17)
Female				−0.16 (0.14)	−0.16 (0.15)	−0.17 (0.14)
AIC	60880.60	60442.23	60881.32	60845.80	60405.20	60846.38
BIC	60955.73	60560.19	60999.38	61028.26	60630.40	61071.77
Log Likelihood	−30433.30	−30210.11	−30429.66	−30405.90	−30181.60	−30402.19
Num. obs.	338720	335628	338720	338720	335628	338720
Num. groups: state:justice name	361	354	361	361	354	361
Num. groups: state	40	39	40	40	39	40
Num. groups: year	16	16	16	16	16	16
Var: state:justice name (Intercept)	0.86	0.87	0.85	0.86	0.87	0.85
Var: state (Intercept)	1.07	1.11	1.09	0.92	0.89	0.94
Var: year (Intercept)	0.01	0.01	0.01	0.01	0.01	0.01

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Table 6: Regression table for model that looks at the effect of overall stringency and days until re-election on a retired justice’s likelihood of writing a separate opinion.