

Judicial Accountability and Racial Disparity in Criminal Appeals

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Abstract

Existing work indicates that retention through election induces larger effects on judicial votes in criminal cases than retention through appointment. Yet existing work has addressed neither case selection effects across retention institutions, nor heterogeneous treatment effects by defendant and judge race. Leveraging the unique retention institutions governing New York State's intermediate appellate judges, we report the first within-justice estimates of the effects of both reelection and reappointment incentives on judicial votes in criminal appeals. Our findings indicate that impending judicial reappointment induces a 49 - 52% within-justice decrease in pro-defendant votes in appeals involving Black defendants heard by all-white panels, but has no effects on votes in other cases. We find no additional effects of impending reelection on appellate justice votes in criminal appeals. Our findings suggest the need for greater attention devoted both to potential selection effects, and to heterogeneous effects by defendant and judge race, in studies of judicial retention institutions.

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1 Introduction

A growing body of evidence indicates that, where judges are retained by election, electoral incentives may affect judicial decisions in criminal cases, potentially violating norms of fairness requiring that like defendants be treated alike (Huber and Gordon, 2004; Gordon and Huber, 2007; Shepherd, 2009*b*; Berdejo and Yuchtman, 2013; Lim, 2013; Iaryczower, Lewis and Shum, 2013; Canes-Wrone, Clark and Kelly, 2014; Dippel and Poyker, 2021). An especially troubling finding is that trial court judges retained through competitive partisan elections issue more punitive sentences to Black defendants, but not to non-Black defendants, as elections approach (Park, 2017).

Some work has sought to compare the effects of judicial retention by election and judicial retention by appointment in criminal cases (Shepherd, 2009*b*; Iaryczower, Lewis and Shum, 2013; Canes-Wrone, Clark and Kelly, 2014). These studies have generally found that judges retained by election appear to exhibit greater responsiveness to retention agents’ likely preferences in criminal cases, relative to judges retained by appointment. This evidence has led some to advocate against the use of elections for judicial retention (e.g., Geyh, 2019). However, cross-institutional estimates may be prone to sample selection bias.

We leverage a unique institutional feature in New York State in order to obtain within-judge estimates of the relative effects of retention by election and retention by gubernatorial appointment, within the same sample of cases. Intermediate appellate justices in New York State must be elected, and reelected, in contested partisan elections in order to be eligible for gubernatorial appointment, and reappointment, as Appellate Division justices. Our data include content extracted from the scraped text corpus of the approximately 38,000 slip opinions in criminal appeals issued by New York State’s intermediate appellate courts between 2003-2017; appellate justice election and appointment data sourced from the New York State Board of Elections and the New York State Judicial Screening Committee; and defendant demographic and offense data scraped from the New York State Department of Corrections’ inmate database.

We find that Appellate Division justices are approximately 1.6 percentage points less likely to vote for defendants in years preceding reappointment years, and 1.8 percentage points less likely to vote for defendants in reappointment years, relative to other years. These decreases correspond to 11% and 13% reductions in pro-defendant votes in the last two years of a justice’s appointment term. We find no significant marginal effects of years that are both reappointment and reelection

years, or of the years preceding these years, on justices' votes. Our results imply that Appellate Division justices in New York State are responsive to reappointment incentives but, conditional on the existence of these reappointment incentives, not to any additional incentives posed by reelection.

Our baseline models include justice, year, and month fixed effects with standard errors clustered on both justice and case. These estimates are robust to the inclusion of pre-ruling case and panel covariates, and to extensive robustness tests. Covariate balance tests indicate that the distribution of cases remains relatively constant over justices' reappointment and reelection calendars. Consistent with a hypothesized causal mechanism of hostile gubernatorial scrutiny of pro-defendant votes, we find that reappointment effects are larger where justices initially appointed by a Democratic governor are up for reappointment by a Republican governor, and during gubernatorial election years.

We further find, in a subsample of cases for which we can identify defendant race, that the negative effect of approaching reappointment on pro-defendant votes in criminal appeals appears only in cases involving Black defendants, not in cases involving non-Hispanic white or Hispanic defendants. Justices are approximately 28 - 29% less likely to vote in favor of Black defendants in their reappointment years. Years in which appellate justices must be both reappointed and reelected have no additional effect on their votes. We see no reappointment or reelection effects in cases involving Hispanic or non-Hispanic white defendants. After weighting cases involving Black defendants to match the distribution of pre-ruling covariates for cases involving white defendants, these appointment year decreases in pro-defendant votes for cases involving Black defendants range from 38 - 41%.

Finally, we find that this racial disparity in reappointment effects appears only in cases heard by all-white appellate panels. Among these cases, and these cases only, we see decreases in pro-defendant votes in justices' reappointment years ranging from 49 - 52% for the sample of cases involving Black defendants. We continue to see no reappointment effects in cases involving white or Hispanic defendants.

Our paper contributes within-judge estimates of the relative impacts of retention by election and retention by appointment to a broad literature on the impacts of retention institutions on judicial decision-making (Besley and Payne, 2013; Huber and Gordon, 2004; Gordon and Huber, 2007; Shepherd, 2009*a,b*; Berdejo and Yuchtman, 2013; Lim, 2013; Iaryczower, Lewis and Shum, 2013;

Canes-Wrone, Clark and Kelly, 2014; Ash and MacLeod, 2015; Park, 2017; Dippel and Poyker, 2021). In addition, our findings on racial disparities in reappointment effects contribute to the growing literature on the importance of both defendant race and judge race in judicial decision-making (Abrams, Bertrand and Mullainathan, 2012; Kastellec, 2013; Alesina and La Ferrara, 2014; Park, 2017; Arnold, Dobbie and Yang, 2018; Cohen and Yang, 2019; Kastellec, 2021).

2 Literature Review

2.1 Estimating Effects of Judicial Retention Institutions

States vary in the institutions used to retain judges on the bench. Most states retain judges through some form of election; some states retain judges through gubernatorial or legislative appointment.¹

A commonly held expectation is that judicial retention by election is likely to induce distortions in judicial decisions as a function of judges’ electoral cycles. Recent work has leveraged within-judge comparisons to isolate the effects of electoral proximity on judicial decision-making, finding electoral cycle effects from competitive partisan elections (Gordon and Huber, 2007; Lim, 2013; Park, 2017), competitive nonpartisan elections (Berdejo and Yuchtman, 2013), and noncompetitive retention elections (Huber and Gordon, 2004). Ash and MacLeod (2015) also find that state supreme court judges retained by contested elections issue fewer and worse quality decisions in reelection years.²

It is also commonly believed that judicial retention by appointment at least partially shields judges from distorting retention effects, relative to retention by election. Besley and Payne (2013) suggest, for example, that “appointed judges who are up for re-appointment need only please politicians, creating an insulating layer between judges and the public.” Lim, Snyder and Stromberg (2015) posit that “the appointment system renders little or no incentive effect.” On the other hand, judges seeking to retain their positions by appointment may still be subject to distorting retention effects. For example, governors must be reelected in relatively high profile and high information elections, and may themselves be held electorally accountable for the decisions of the judges they appoint and reappoint. Moreover, gubernatorial offices have the resources to tightly monitor judicial

¹As of 2019, 38 states provided for appellate judge retention by election; 8 states provided for appellate judge retention by appointment (CT, DE, ME, NJ, NY, SC, VA, VT), and 3 states provided for appellate judge terms that ended at age 70 or retirement, with no retention events (MA, NH, RI).

²However, Dippel and Poyker (2021) find electoral cycles in only 3 states retaining judges by election, and no electoral cycles in 6 states retaining judges by election.

decision-making (Gray, 2017). By contrast, judicial elections are relatively low information events; voters have few opportunities and perhaps even fewer incentives to become informed about state judges' decisions in cases (Sheldon and Lovrich, 1999).

At present, the best available evidence on the relative effects of judicial retention by election and judicial retention by appointment come from cross-state comparisons, and the collective weight of this evidence supports the conventional wisdom. For example, Besley and Payne (2013) found a lower volume of anti-discrimination claims filed in states whose appellate judges are retained by appointment, relative to states whose appellate judges are retained by election, suggesting that judges retained through reappointment are less responsive to voters' preferences for anti-discrimination protections. Shepherd (2009*b*) found that, relative to state supreme court justices facing reelection in Democratic states, state supreme court justices facing reelection in Republican states were significantly more likely to issue pro-business decisions in product liability cases, pro-employer decisions in labor disputes, pro-hospital decisions in medical malpractice cases, and anti-defendant decisions in criminal cases. In contrast, state supreme court justices facing reappointment by Republican governors did not significantly differ in their decisions, relative to state supreme court justices facing reappointment by Democratic governors. Iaryczower, Lewis and Shum (2013) found that judicial reelection, but not judicial reappointment, incentivized fewer pro-defendant rulings in a sample of criminal appeals heard by state supreme courts between 1995 and 1998. Canes-Wrone, Clark and Kelly (2014) found that state supreme court judges retained through nonpartisan retention elections were more responsive to changes in public opinion regarding the death penalty, relative to judges retained by either gubernatorial/legislative reappointment or partisan elections.³

2.2 Selection Bias in Cross-Institutional Comparisons

The apparently greater influence of political pressures on the decisions of state judges retained through election, relative to those retained through appointment, has led some to advocate appointment as a preferable retention mechanism (e.g., Geyh, 2019). However, it is not clear how to compare estimates of judicial responsiveness to retention incentives under different retention institutions, given the selection effects that may be at work. Judicial retention institutions may

³However, using only the subset of cases wherein a government agent was a party to civil litigation, Shepherd (2009*a*) found that state supreme court judges retained by partisan reelection, by legislative reappointment, and by gubernatorial reappointment became more likely to vote in favor of the government party as their retention event approached, relative to judges retained by retention elections.

affect both judicial behavior, and the samples of cases seen by judges. If retention institutions affect case samples, then our estimates of the effects of these institutions on judicial behavior may be confounded by sample selection bias.

Assume for the sake of argument that, if we could allocate the same sample of criminal cases to a set of judges retained by appointment, and a set of judges retained by election, we would see larger reductions in pro-defendant votes in retention years by judges retained by appointment, relative to judges retained by election. Assume further that this variation across retention calendars would occur largely in marginal cases: those cases wherein the correct disposition was neither so obviously in favor of the defendant, nor so obviously against, so as to make it difficult for a judge to change her behavior as a function of her retention calendar.

Now consider how the samples of cases seen by appellate judges might be affected by retention institutions. When lower court judges know that the appellate judges reviewing their rulings will be strongly pulled in the direction of voting against defendants, they may alter their behavior in marginal cases. Instead of using their discretion in favor of acquittals in these marginal cases, they may be more likely to use their discretion in favor of convictions. Likewise, when defense attorneys know that appellate judges will be strongly pulled in the direction of voting against defendants, they may be less likely to appeal marginal convictions. These processes may result in appellate judges retained by appointment seeing a sample of appeals that is systematically missing both marginal acquittals and marginal convictions.

By contrast, when lower court judges know that the appellate judges reviewing their rulings will be less strongly pulled in the direction of anti-defendant votes, they may be less likely to alter their behavior in marginal cases. These lower court judges may be less likely to shift their use of discretion in favor of convictions in marginal cases. Likewise, when defense attorneys know that appellate judges will be less strongly pulled in the direction of anti-defendant votes, they may be more likely to appeal marginal convictions. Both of these processes may result in appellate judges retained by election seeing a sample of appeals that is less systematically missing both marginal acquittals and marginal convictions, relative to the sample of appeals heard by appellate judges retained by appointment.

If there is selection in the samples of cases seen by appellate judges, as a function of retention institutions, then we cannot compare estimates of the effects of retention incentives across appellate

judges with diverse retention institutions. In the example narrated above, if there are fewer marginal cases in the samples of cases reviewed by appellate judges retained by appointment, relative to the samples of cases reviewed by appellate judges retained by election, then we may estimate smaller retention effects in the former sample, simply because of unobserved sample differences.

There is in fact evidence of selection on the cases seen by appellate courts as a function of judicial retention institutions; Besley and Payne (2013) show that the number of filed discrimination claims responds to judicial retention institutions. As a consequence of these potential selection effects, to date we lack genuinely comparable estimates of the relative effects of reelection and reappointment incentives on judicial decision-making. Our empirical design, by estimating within-judge reappointment and reelection effects using *the same sample of cases*, addresses these potential selection effects.

2.3 Estimating Racially Disparate Impacts of Retention Institutions

A growing body of literature documents the relevance of both defendant and judge race in criminal cases (Abrams, Bertrand and Mullainathan, 2012; Alesina and La Ferrara, 2014; Arnold, Dobbie and Yang, 2018; Cohen and Yang, 2019; Kastellec, 2021). The design of judicial retention institutions may affect the salience of defendant and judge race in these cases. Both voters and elected officials may be differentially responsive to pro-defendant votes in cases involving nonwhite defendants, perhaps due to asymmetric media coverage of pro-defendant rulings when defendants are nonwhite, voter/elected official bias, or both (Entman and Gross, 2008; Lim, Snyder and Stromberg, 2015). Although there is as yet little work on this question, using Kansas data on convicted felons sentenced between 1998 and 2011, Park (2017) finds that incarceration rates rise for Black but not white felons during the six months immediately preceding a reelection event, for trial judges retained through contested partisan elections. To date, however, we lack comparable estimates of retention effects for judges retained by appointment. Our empirical design will allow us to look for racial disparities in within-judge estimates of both election and appointment effects, by both defendant and judge race.

3 Within-Judge Estimates of Retention Effects

The preponderance of the empirical evidence appears to suggest that retaining judges through appointment may reduce the negative externalities induced by electoral cycles in judicial decision making when judges are retained by election. However, as noted above, it is not clear how much weight we should give to cross-institutional estimates, given possible selection effects.

New York State provides a unique opportunity to estimate within-judge effects of both reelection and reappointment. Justices on the state’s intermediate appellate courts must be elected and reelected in partisan elections in order to be and remain eligible for the intermediate appellate bench. They are then appointed and potentially reappointed to the intermediate appellate bench by the governor, up until a mandatory retirement age of 70. No other state judicial system of which we are aware provides for both reappointment and reelection incentives in this way (American Judicature Society, 2019).

We leverage the unique institutional context governing the retention of New York State’s intermediate appellate justices to generate within-justice estimates of the effects of both partisan elections and gubernatorial reappointment on the votes of appellate justices in criminal appeals.

3.1 New York State’s Intermediate Appellate Courts

New York State’s intermediate appellate courts are divided into 4 Appellate Divisions, one in each of the state’s 4 judicial departments (see Figure 1 in the Appendix). Each of the divisions has mandatory appellate jurisdiction over the final judgments and orders issued by the trial courts within its department.

New York State’s Constitution gives the power to appoint and reappoint Appellate Division justices solely to the governor (Article 4, Section 71). These appointments must be drawn from from the pool of elected Supreme Court (trial court) justices. Supreme Court justices, in turn, are elected to 14-year terms in partisan elections held in the state’s 13 judicial districts.

It has become convention for each new governor to issue an executive order continuing in existence a New York State Judicial Screening Committee. The Screening Committee evaluates candidates’ fitness for appointment and reappointment to the Appellate Division bench, and recommends to the governor those candidates rated as “highly qualified” to serve on that bench. The Screening Committee requires applicants to the bench to complete a lengthy questionnaire that

covers a number of compliance, conflict of interest, and financial questions. The questionnaire also asks sitting judges to list any cases over which they have presided that are noteworthy because of “legal significance or press attention,” and to provide citations to “relevant decisions and/or publicity.” The questionnaire also asks all sitting Appellate Division justices to provide “all your opinions (including dissenting or concurring opinions) that you authored as an Appellate Judge,” including unpublished opinions.⁴

The State Constitution provides that the First and Second Departments are each to have 7 Appellate Division justices, and the Third and Fourth Departments to each have 5 appellate justices. Appellate justices appointed to one of these “constitutional” seats serve 5-year terms, or until the completion of their 14-year elected Supreme Court terms. At the conclusion of their terms (or upon being re-elected to a subsequent 14-year Supreme Court term), they may be reappointed to the Appellate Division. In addition to these “constitutional” justices, the Governor also designates a “Presiding Justice” in each Department; presiding justices serve until the completion of their 14-year elected terms, at which time (upon being reelected), they may be reappointed. The Presiding Justice of each Department may also ask the Governor to designate “additional justices” when needed based on the Division’s workload. The qualifications for additional justices are the same as for other Appellate Division justices. These “additional” justices, like presiding justices, serve until the completion of their 14-year elected terms, at which time (upon being reelected), they may be reappointed. For example, at full complement, 22 appellate justices currently sit on the Second Department, 7 on the constitutional bench and 15 as additional appellate justices. Additional appellate justices are promoted to “constitutional” seats as these become available, in order of seniority, at which time they begin to serve 5-year terms, or until the completion of their 14-year elected Supreme Court terms. Upon reaching the constitutional mandatory retirement age of 70, Appellate Division justices may be appointed as “certificated” justices on the appellate bench for a maximum of three 2-year terms.

According to the State Constitution, each Appellate Division case is decided by a panel of at least 4 and at most 5 justices; the concurrence of 3 justices is necessary for a ruling. Per the State Constitution, appellate panels may reverse, affirm, or modify trial court judgments or orders.

⁴<https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/2019JudicialAppointmentQuestionnaire.pdf>.

3.2 Design

The nature of the retention process for New York State’s intermediate appellate justices implies that, during at least some of the years during which they sit on the appellate bench, some appellate justices may face both reappointment and reelection events in order to remain on that bench.

For example, Figure 1 illustrates a sequence of elections and appointments for one such hypothetical appellate justice.

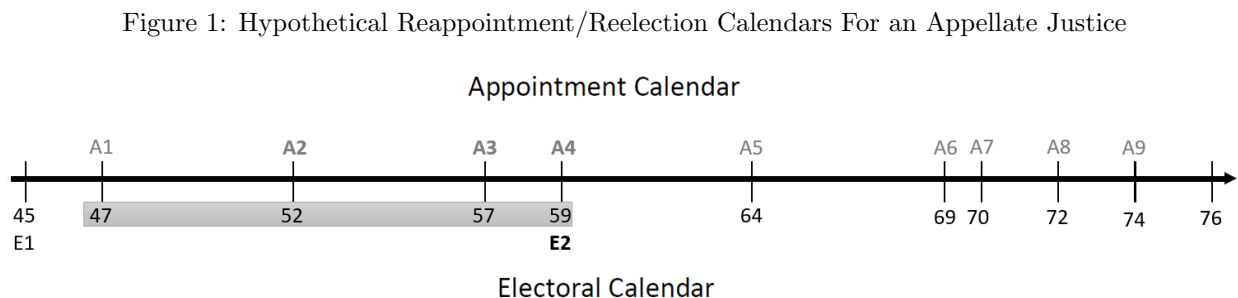


Figure 1 represents hypothetical election and appointment calendars for a justice appointed to the Appellate Division bench at age 47, 2 years after first being elected to the Supreme Court bench at age 45. A* represent appointment and reappointment events; E* represent election and reelection events; numbers represent justice age. The shaded area between A1 and A4/E2 represents the period of time when the justice still faces both reappointment and reelection events. After A4/E2, the justice’s next election would be after the mandatory retirement age of 70. After this point, the justice faces only reappointment events, not reelection events.

This justice is elected to the Supreme Court at age 45 (E1). She is then appointed to a 5-year “constitutional” seat on the Appellate Division two years later, at age 47 (A1). 5 years later, she faces a reappointment event, and is reappointed at age 52 (A2). 5 years after this reappointment, she faces a second reappointment event, and is reappointed at age 57 (A3). After A3, she has only 2 years remaining on her 14-year electoral term, at which point (at age 59), she faces reelection (E2). Because she must be reappointed after every reelection, this is also a third reappointment year (A4). After her reelection at age 59, her next election would occur at age 73, after mandatory retirement, so she no longer faces a reelection event, and is no longer on an electoral calendar. She still faces two more reappointment events, however, at ages 64 and 69 (A5 and A6), before she reaches the mandatory retirement age of 70. At age 70, she can then be appointed to a maximum of three 2-year post-retirement terms, implying that she faces three more reappointment events (A7, A8, and A9). After A9, she then can serve two years on the appellate bench without facing either reelection or reappointment.

In order to estimate comparable within-justice effects of both reelection and reappointment, we focus our attention on the votes of justices who are still on both reelection and reappointment calendars.⁵ In the case of the hypothetical justice portrayed in Figure 1, we would focus on her votes in cases empaneled during the 12 years between her first appointment to the appellate bench (A1) and the date of her reelection (E2); these years are shaded in Figure 1.

The nature of New York State’s Appellate Division retention rules prohibit us from estimating an independent effect of an approaching reelection event, in the absence of a simultaneously approaching reappointment event. Because Appellate Division justices must be reappointed following a successful reelection, no matter the length of their original term or the proportion of their term completed at the time of reelection, every reelection event is also a reappointment event.

By contrast, as in the case of the hypothetical justice depicted in Figure 1, reappointment events can occur in the absence of simultaneous reelection events. We can thus estimate the effects both of approaching reappointment events, and of approaching reelection events, conditional on the presence of approaching reappointment events. In the case of our hypothetical justice, across the 12 years of votes we would include in our sample, we would estimate the effects of the approaching reappointment events A2, A3, and A4, and the marginal effects of the approaching reelection event E2, conditional on the presence of the simultaneously approaching reappointment event A4.

4 Data

4.1 New York State Appellate Division Slip Opinions, 2003-2017

Slip opinions from the Appellate Division’s rulings are available in portable document format for individual download on the websites of each of the four departments. We scraped the text of the 145,265 slip opinions issued between November 2003 and August 2017, inclusive. We then converted the pdf documents into a flat file database, and used a series of regular expression text extractions to identify critical case features.

We first identified whether the “People of the State of New York” were identified as a party to the case, indicating a criminal appeal. There are 37,920 criminal appeals in the sample, or 26%

⁵Governors may respond differently to the reappointments of justices who still face future election events, with the attendant potential for media attention, relative to the reappointments of justices who no longer face any future election events.

of all slip opinions. For each criminal appeal, we identified the appealing party (prosecution or defense) by extracting whether “Appellant” or “Respondent” followed the phrase, “The People of the State of New York.” The dates of the trial and appellate court ruling, case number, appellate department, and defendant name were also extracted from the case heading.

An Appellate Division appeal must be heard by a panel of no less than four and no more than five appellate justices. When the justices vote together in a case, their names are all located next to one another in the text of a slip opinion (e.g., “Ritter, J.P., Florio, Carni and Leventhal, JJ., concur.”). We leveraged this spatial adjacency to extract appellate justice names in cases with no dissents.⁶ There are 134 unique appellate justices in our sample of criminal cases, who cast 171,689 votes; 80 justices cast 83,453 votes during periods when they are on both reappointment and reelection calendars.

In most Appellate Division opinions in criminal cases, the first two sentences in the opinion summarize several key pieces of information about the ruling being appealed and the appellate ruling, using the following structure: “Judgment, [County Name] County...convicting defendant, after a [jury trial/nonjury trial/plea of guilty], of [top charge, second charge, and n charges]. Judgment is [affirmed/modified/reversed].” Using this common structure, we extracted the name of the county in which the trial court was located; whether the trial court judgment was the result of a jury trial, a nonjury trial, or a plea of guilty; the list of conviction charges; and whether the lower court ruling was affirmed, modified, or reversed by the appellate panel.

We separate conviction charges and identify those first and second charges that are Class A or Class B felonies, the most serious felonies under New York’s Penal Code. In some cases, defendants are appealing their risk assessments under New York’s Sex Offender Registration Act. We search for the phrase “pursuant to the Sex Offender Registration Act” to identify these cases.

We are interested in whether a defendant receives any relief from the appellate court, and therefore define a ruling as a reversal if either of the words “reversed” or “modified” appear in the opinion. Rarely, there are dissents. We identified dissents by performing a regular expression extraction on the word “dissent.” We then read each of these cases individually to determine the number and identity of dissenting justices.

⁶As noted below, we also secured the complete Appellate Division appointment records from the New York State Screening Committee for the period covered by our data. These records contain the names of the universe of Appellate Division justices during our sample period. We queried the slip opinions for these names, ensuring that we were able to secure the universe of votes associated with a given justice during our sample period.

We convert some of these case features into fixed effects in the analyses to follow, including fixed effects for appellate justices, years, and calendar months. Table 5 reports on those case features that lend themselves to descriptive statistics.

In approximately 1.6% of cases, the prosecution is appealing the lower court’s ruling. In the remaining cases, the defendant is the appellant. Approximately 14% of our cases are reversals, using our definition of a reversal (trial court ruling is “reversed” or “modified”). Prosecutors are significantly more likely to win a reversal on appeal than defendants (58.6% vs. 13.6%; $p = .00$). We would expect prosecutors to be more strategic in their appeals, relative to defendants; the asymmetry in reversal rates, conditional on the identity of the appealing party, provides some support for the construct validity of these extractions.

There are dissents in 1.3% of the criminal appeals in our sample. Dissents are more likely to occur in cases resulting in reversals, with dissenting justices present in 5.5% of reversals but only in 0.1% of not reversals ($p = .00$). Because reversals are significantly less likely to occur than not reversals, and for that reason alone are presumably more likely to be more controversial rulings, this asymmetry in dissent rates is again suggestive of the validity of these extractions.

There are on average 4.6 justices per case. Among those cases for which we could extract charges, approximately 12% of cases involve appeals of Class A felonies; 34% of cases involve appeals of Class B felonies; 12% of cases involve appeals of sex offender risk assessments. Among those cases for which we could extract trial court disposition information, 55% of appeals originate from cases resolved by pleas; 40% originate from cases resolved through jury trials; 5% of appeals originate from cases resolved by bench trials.

We define a pro-defendant vote as a vote to reverse when the defendant has appealed (non-dissenting or dissenting), and a vote to not reverse when the prosecution has appealed (non-dissenting or dissenting). Our estimation strategy will attempt to identify both the impact of an approaching reappointment event on an appellate justice’s pro-defendant votes, and the additional impact of an approaching reelection event on those votes, conditional on an approaching reappointment event.

4.2 Appellate Justice Election and Appointment Data

4.2.1 Appellate Justice Election Data

Data for Supreme Court judicial elections were obtained in portable document format from the New York State Board of Elections for 1999-2017, inclusive, and then extracted into structured data. We have election data on 126 elections for 104 of the 134 appellate justices in our sample.

Supreme Court elections in New York State, held within the judicial districts depicted in Figure 2, are multi-seat elections; the number of seats available in any given election varies across districts and over time within each district, depending on the number of Supreme Court justices assigned by the state’s legislature to that district. Overall, 79% of the 126 elections in the sample were contested, meaning that there were more Supreme Court candidates on the ballot than seats in that judicial district election.⁷

As noted previously, Supreme Court elections in New York State are partisan. However, candidates can be endorsed by multiple parties; votes are tallied separately by party. We measure each appellate justice’s partisan support in a given election by computing the proportion of major party votes the justice received from the Democratic party. On average the justices in our sample for whom we have election data receive 54% of their major party votes from the Democratic party. In 36.5% of these elections the justice runs only as a Republican, with no Democratic party cross-endorsement; in 28.6% of these elections the justice runs only as a Democrat.

There are 44 instances of a sitting appellate division justice in our sample seeking reelection during the time period for which we have judicial election data. 77% of these races were contested, and the incumbent reelection rate in these contests was 77%. In the 34 contested races in which an incumbent Appellate Division justice ran for reelection, the incumbent reelection rate was 71%.

We can compare these election data with those of Streb, Frederick and LaFrance (2007), who report that 92.2% of incumbents were reelected in intermediate appellate court elections for 2000–2006, with an average 93.4% incumbent reelection rate in partisan elections. The incumbent reelection rate of 77% for the New York State Appellate Division justices in our sample suggests the presence of relatively competitive elections.

We can also compare these election data with those from the sample of Kansas partisan judicial

⁷The number of seats available in any given election was identified from the number of winning candidates in that election, as reported in the New York State election records.

elections used in Park (2017).⁸ Notably, the partisan elections contested by sitting Appellate Division justices in New York between 2003 and 2017 appear to be significantly more competitive than the partisan elections contested by sitting trial justices in the Kansas sample. The proportion of partisan elections that are contested in the Kansas data is only 7%, relative to 77% in the NYS data. Among those elections that are contested, incumbent reelection rates are similar (67% in Kansas; 71% in NYS) (Park, 2017). The competitiveness of Appellate Division reelection events in New York State suggests that we should expect to find electoral effects on appellate votes at least as large if not larger than those found in Kansas.

4.2.2 Appellate Justice Appointment Data

Data for Appellate Division appointments between 1999-2019 were sourced from the office of the New York State Judicial Screening Committees. As noted previously, appointment terms can vary in length from 2-14 years, depending on the kind of appointment, the date of a justice's next reelection event (if any), and the year in which a justice will turn 70 years old. In our sample, 83,453 or 48.6% of the 171,689 judicial votes in criminal appeals take place during year/months when an appellate justice needs to secure both reelection and reappointment in order to remain on the appellate bench.

We sourced data on Appellate Division justice age and race from *The American Bench*, a periodically updated directory of biographical information on judges in the United States, the New York State Bar Association's recent report on judicial diversity,⁹ New York State's voter files, and other online biographies of the justices.

4.3 Media Coverage of Appellate Division Justices

In order for either reelection or reappointment incentives to exist, judges presumably need to believe that their votes in cases have an audience beyond the parties to these cases. Lim, Snyder and Stromberg (2015) show, for a sample of 9,828 trial judges, that even these lower court judges are the subjects of on average 9 news articles per year, and that an additional 8 news articles per

⁸Appellate Division justices must be first elected and then reelected in trial court (Supreme Court) elections, in which most of other candidates will be running for trial court (Supreme Court) seats. The comparison made here between New York State and Kansas judicial elections is thus a comparison between two sets of trial court elections.

⁹https://nysba.org/app/uploads/2020/02/JudicialDiversityReportSept24Final_wb.pdf

year about judges selected in nonpartisan elections is associated with a 3.4% increase in average sentence length for homicides, sexual assaults, and robberies.

Lim, Snyder and Stromberg (2015) did not separately measure or estimate the effects of media coverage by judicial retention institutions. However, given their findings, it is presumably plausible that the appellate justices in our sample receive at least comparable media coverage. To test the credibility of this assumption, we conducted a Lexis Nexis search for news articles referencing the 134 New York State Appellate Division justices in our sample, and classified by Lexis Nexis as involving criminal justice.¹⁰ The justices in our sample were each the subject of on average approximately 20 articles referring to the justice by name and appearing to refer to the justice's votes in criminal cases. 11.9% of these articles mentioned an appointing governor by name.¹¹

From the set of 2727 articles classified as referring to appellate justice votes in criminal cases, we read a random sample of 60 articles and identified whether the article reported on a pro-defendant or an anti-defendant vote. 88% of the sampled articles were about pro-defendant appellate votes, indicating strongly asymmetric media interest in pro-defendant rulings. Many of these articles editorialized negatively on the justices' pro-defendant votes. For example, in a series of articles about a 3-2 appellate ruling in which a juvenile gun conviction was "mindlessly overturned by an appeals court," the New York Post identified by name only those justices in the majority who "conspired" to void the defendant's sentence of 18 months probation.¹² After a similar "stunning" 3-2 decision by a different appellate panel, the Post declared, "There they go again—letting another young gun go free! For the second time in a week, a Manhattan appeals court has overturned the conviction of a teen found packing heat in a crime-ridden neighborhood after a stop-and-frisk."¹³ Following up with an article entitled, "The Court of Lawlessness," the paper lambasted "the dangerous dimwits who sit on a Manhattan appeals court," asking, "Are they nuts?"¹⁴

¹⁰We used all four possible combinations of the terms: JUSTICE NAME + APPEAL/APPELLATE + JUSTICE/JUDGE; we then filtered those results for articles published in New York State. The search returned 6492 articles. We then identified those articles in this set whose subjects were classified by Lexis Nexis as including the strings "CRIME", "SENTENC", "JUVENILE", "PRISON", "JAIL", "SUBSTANCE", "CRIMI", "HOMICIDE", "ILLEGAL", "LARCENY", "THEFT", "ARREST", "ROB", "MISCONDUCT", "ABUSE", "VICTIM", "LAW ENFORCEMENT", "JURY", or "PAROLE". There were 2727 such articles.

¹¹For example, a New York Post article from July 9, 2012 observed that Appellate Justice Dianne Renwick, "one of the judges who tossed the stop-and-frisk conviction of a 14-year-old boy found with a gun in Harlem...was appointed by former Gov. David Paterson to the Appellate Division in 2008." <https://nypost.com/2012/07/09/bx-da-jails-frisked-gun-thugs-and-judge-wife-lets-em-go-free/>.

¹²<https://nypost.com/2012/06/28/why-was-darryl-free/>.

¹³<https://nypost.com/2012/07/04/judges-free-another-kid-caught-with-gun-in-stop-and-frisk/>.

¹⁴<https://nypost.com/2012/07/09/the-court-of-lawlessness/>.

The media coverage of the Appellate Division justices in our sample suggests that their rulings in criminal cases receive sufficient media attention to be of interest to voters, governors, or both.

5 Analysis

To evaluate the relative impacts of reappointment and reelection incentives on appellate justice votes in criminal appeals, we estimate the following baseline equation:

$$Y_{icpym} = \beta \text{Reappt Yr}_{iym} + \varphi \text{Reappt Yr - 1}_{iym} + \gamma \text{Reappt/Reelect Yr}_{iym} + \alpha \text{Reappt/Reelect Yr - 1}_{iym} + \mu_i + \tau_{y,m} + X_c + Z_p + \varepsilon_{it} \quad (1)$$

where Y_{icpym} is an appellate justice i 's vote in a case c heard by appellate panel p in year y and calendar month m , with the vote coded 1 if the vote is pro-defendant, and 0 if the vote is not pro-defendant. Reappt Yr_{iym} is coded 1 if the vote occurs in the last twelve months of the justice's appointment term, and 0 otherwise; $\text{Reappt Yr - 1}_{iym}$ is coded 1 if the vote occurs in the next to last twelve months of the justice's appointment term, and 0 otherwise; $\text{Reappt/Reelect Yr}_{iym}$ is coded 1 if the vote occurs in the twelve months of the justice's election term, and 0 otherwise; $\text{Reappt/Reelect Yr - 1}_{iym}$ is coded 1 if the vote occurs in the next to last twelve months of the justice's election term, and 0 otherwise; μ_i is a set of justice fixed effects; $\tau_{y,m}$ are sets of year and calendar month fixed effects; X_c is a vector of case-specific covariates, including whether the state is the appellant in the case (1, otherwise 0); whether at least one of the top two charges can be identified as a class A felony (1, otherwise 0); whether at least one of the top two charges can be identified as a class B felony (1, otherwise 0); whether the case involved a risk assessment pursuant to the Sex Offender Registry Act (1, otherwise 0); and whether the disposition in the case could be identified as resulting from a jury trial (1, otherwise 0) or a bench trial (1, otherwise 0). Z_p is a vector of panel covariates, including the proportion of other justices on the panel initially appointed by Democratic governors; the proportion of other justices on the panel in the last year of their current appointment term; and the proportion of other justices on the panel in the last year of their current election term (Fischman, 2013). We estimate Equation 1 in OLS using a linear probability model with standard errors clustered on both justice and case (Fischman, 2013).

We also estimate Equation 1 with all included covariates after dropping dissenting votes from the sample. Independently of their induced preferences over pro-defendant rulings, justices approaching reappointment/re-election may be less likely to cast dissenting votes, from concern about drawing unwanted attention to their votes. Since most appeals are by defendants, and most appeals are affirmed, dissent aversion alone could be driving any observed decreases in pro-defendant votes as justices near reappointment/re-election. Eliminating dissenting votes from the sample removes this possible confounder.¹⁵

Our estimation strategy requires that the samples of cases heard by an appellate justice remain relatively similar across her electoral and appointment calendars. There are at least three mechanisms through which this assumption could be violated, all involving efforts by appellate justices approaching re-election/reappointment to avoid cases in which they might be induced to vote in favor of criminal defendants. First, appellate justices approaching re-election/reappointment could seek to be assigned criminal cases less likely to result in pro-defendant rulings. Second, appellate justices approaching re-election/reappointment could seek to be assigned a greater proportion of civil cases, relative to criminal cases. Third, appellate justices approaching re-election/reappointment could selectively recuse themselves from criminal cases likely to result in pro-defendant rulings, and/or criminal cases more generally. Before proceeding to our main analyses, we investigate these mechanisms.

5.1 Appellate Division Case/Panel Assignment

The practice rules of the Appellate Division are codified in statewide regulation (22 NYCRR Part 1250), as well as in rules and practices specific to each of the four departments. We contacted each department to inquire about its rules for assigning justices and cases to appellate panels. We found that the key elements in justice and case assignment are common across the four departments.

Several months in advance, the calendar clerk of a department will assign a judicial bench to each calendar day in a term, a period comprising typically no more than 15 days per month. A single bench of four or five justices will sit for an entire calendar day. The procedural rules determining the composition of these benches are not public. However, sitting clerks and deputy clerks reported to us that they consider a number of factors in composing the benches. Most

¹⁵As reported below, we also estimate the effects of retention incentives on dissenting votes as another strategy to ensure that our primary estimates of interest are not simply picking up dissent aversion.

important are capacity constraints, including the number of justices needed per week, the number of justices available on any given day, and the spacing out of bench assignments so that the justices have sufficient time to prepare for cases. The clerks reported that factors such as legal experience or seniority play no role in the bench assignment process, although each bench is presided over by a senior justice, who is generally, but not always, a member of the constitutional bench.

Cases are assigned to calendar days when the calendar clerk of a court receives all the requisite documents for a case. Cases are generally assigned to the next available calendar opening, in the order in which files are completed. By the time that cases are assigned to calendar days, the benches have typically already been composed. The clerks in the departments reported to us that the only way in which bench composition affects case calendaring is through standing recusals. For example, if a justice always recuses himself from cases involving a particular law firm with which he is or has been connected in some way, a case in which that law firm appears will not be calendared to be heard by a bench of which that justice is a member. Once assigned to a bench, justices cannot recuse themselves from that bench, although they can recuse themselves from specific cases on the grounds that they will be unable to remain impartial in a case.¹⁶

Appellate Division calendaring and recusal procedures would appear to make it unlikely that justices approaching reelection/reappointment are able either to influence their case assignments, or to selectively recuse themselves from cases without public declarations of partiality. We can nonetheless examine the empirical evidence for strategic case assignment/recusal. First, as justices approach reappointment and/or reelection, if clerks strategically assign these justices criminal cases with lower ex ante likelihoods of pro-defendant rulings, and/or if these justices selectively recuse themselves from criminal cases with higher ex ante likelihoods of pro-defendant rulings, then presumably we would see differences in observable case characteristics, as a function of reelection and/or reappointment calendars. Table 6 in the Appendix reports the results of differences in means tests for case covariates for the sample of 83,453 votes cast by appellate justices on both reappointment and reelection calendars. There are no differences in observed case features across

¹⁶Judiciary Law Section 14 provides that a judge in New York State must recuse himself from a case in four instances: (1) when the judge is a party in the matter; (2) when she has been attorney or counsel in the matter; (3) when she is “interested” in the matter; or (4) when she is related by consanguinity or affinity within the sixth degree to a party before her. Judicial “interest” in a case has been further defined as “an interest as a party or in a pecuniary or property right from which he might profit or lose” (In re Estate of Sherburne, 476 N.Y.S.2d 419, 421 (Sur. Ct. 1984)). A judge may also recuse herself on her own discretion, “within the personal conscience of the court”, when she feels that her impartiality may be compromised in the matter before her (People v. Moreno, 516 N.E.2d 200, 201 (N.Y. 1987)).

these calendars.

We can also look at the judges' assigned caseloads as a function of their reappointment and reelection calendars. Justices approaching reappointment/reelection might seek to shift their caseloads in the direction of hearing a greater proportion of civil cases, as a strategy to avoid the possibility of pro-defendant rulings in criminal cases. We might expect this mechanism to be more pronounced for judges with higher *ex ante* propensities to vote in favor of criminal defendants.

In order to explore this mechanism, we sourced assigned bench/case calendars from the First and Second Divisions for the period spanning January 2013 to the present.¹⁷ The calendars include the benches assigned to 18,673 cases, or 108,363 potential justice-case votes. Of these cases, 6,334 were criminal cases, and 12,339 were civil cases. For each justice on the assigned calendars who still needed to secure both reappointment and reelection, we calculated the share of each justice's total assigned monthly caseload comprising criminal cases. Using our slip opinion data, we also classified the First and Second Division justices in the calendar data into terciles of the average likelihood of pro-defendant votes during periods when a justice was not facing a reappointment or reelection event within the next two years. If Appellate Division justices approaching reappointment/reelection strategically avoid criminal cases, we would expect to see decreasing shares of criminal cases heard per month, particularly for justices in the upper tercile of the baseline propensity to vote for criminal defendants.

Table 7 in the Appendix suggests, however, that this is not the case. There is no evidence that First and Second Division justices approaching reappointment/reelection are assigned to hear smaller proportions of criminal cases, either overall or within the upper tercile of pro-defendant justices.

We also explore the possibility of strategic recusals. To identify possible appellate justice recusals from assigned cases, we merged the First and Second Division slip opinion data with the calendar data. 4,641 cases or 21,032 potential justice-vote observations were exactly matched; 8,725 of these potential justice-vote observations occur when a justice is on both reappointment and reelection calendars. We define a recusal as the absence of a justice vote in a criminal case to which the justice has been assigned, finding 82 recusals (or 1%) in the sample of 8,725 potential justice-vote observations for justices on both reappointment and reelection calendars. Table 8 in

¹⁷Other divisions do not currently report bench/case calendars from previous years.

the Appendix reports the variation in recusals across these calendars, finding no evidence of a systematic relationship between a justice’s reappointment/re-election calendar and her likelihood of recusal.

5.2 Main Effects

Table 1 reports estimates for the calendar variables of interest from Equation 1, using only those justice votes that occur when a justice is still on both reappointment and re-election calendars; Table 9 in the Appendix reports all point estimates. Model 1 reports estimates from the baseline model with justice, year, and month fixed effects. Model 2 includes an indicator for whether the prosecutor is appealing the trial court’s ruling. Model 3 includes indicators for A and B class felonies for the top two charges in the case, and an indicator for whether the defendant is challenging a sex offender risk designation. Model 4 includes indicators for whether the disposition in the trial court could be identified as a jury trial or a bench trial. Model 5 includes panel variables for the proportion of other justices on the panel initially appointed by a Democratic governor; the proportion of other justices on the panel in the last year of their current appointment term; and the proportion of other justices on the panel in the last year of their current election term. Model 6 excludes dissenting votes from the sample.¹⁸

Consistently, across all models, we see decreases in the probability that an appellate justice votes in favor of a criminal defendant in the last two years of an appointment term, relative to other years in her appointment term. In the next to last year of an appointment term, justices are approximately 1.6 percentage points less likely to vote in favor of criminal defendants, relative to votes cast in other years; these estimates are consistently significant at $p < .05$. In the last year of an appointment term, justices are approximately 1.8 percentage points less likely to vote in favor of criminal defendants, relative to votes cast in other years; these estimates are consistently significant at $p < .01$. Given that the baseline probability that a justice votes in favor of a criminal defendant in non-reappointment years is 14%, these estimates suggest approximately an 11% reduction in pro-defendant votes in the second to last year of an appointment term, and approximately a 13% reduction in pro-defendant votes in the last year of an appointment term.

In contrast to the existing literature, we see no additional effects when the last or second to

¹⁸All models are estimated using `reghdfe` in Stata 15.1 with two way clustering on justice and case.

Table 1: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.019*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)
Reappt Yr - 1	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)
Reappt/Reelect Yr	0.009 (0.007)	0.007 (0.008)	0.007 (0.008)	0.006 (0.008)	0.007 (0.008)	0.007 (0.008)
Reappt/Reelect Yr - 1	0.008 (0.007)	0.008 (0.007)	0.007 (0.007)	0.006 (0.007)	0.007 (0.007)	0.007 (0.007)
Total Effect Reappt/Reelect Yr	-0.010	-0.011	-0.011*	-0.012*	-0.011	-0.011
P value	0.104	0.104	0.095	0.087	0.105	0.129
Total Effect Reappt/Reelect Yr - 1	-0.008	-0.008*	-0.009*	-0.010**	-0.010*	-0.009*
P value	0.112	0.099	0.083	0.046	0.053	0.065
N	83453	83453	83453	83453	83453	83138
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Prosecutor Appeals	No	Yes	Yes	Yes	Yes	Yes
Felony Class/Sex Offender	No	No	Yes	Yes	Yes	Yes
Jury/Bench Trial	No	No	No	Yes	Yes	Yes
Panel Covs	No	No	No	No	Yes	Yes
No Dissenting Votes	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

last years of an appointment term occur simultaneously with the last or second to last years of an election term. Coefficients on the electoral calendar indicators are consistently positive but not significant at conventional levels. New York State Appellate Division justices are less likely to cast pro-defendant votes as reappointment approaches, but approaching reelection does not appear to induce any significant additional effects on justices' votes. Total retention effects for years in which justices face both reappointment and reelection (or the sum of reappointment and reappointment/reelection effects) are consistently negative, and depending on the specification, are significant or close to significant at the $p < .10$ threshold. Appendix Figure 3 presents these effects in graphical format.

Point estimates are remarkably stable across models, as expected given our finding of relative covariate balance across reappointment and reelection calendars. As reported in Table 9 in the Appendix, covariates generally have expected relationships with the outcome of interest: justices are more likely to vote for a defendant when the prosecution is appealing, when the offense was less serious (B Felony or Sex Offender Registry), when the defendant's conviction resulted from a bench or jury trial, relative to a guilty plea, and when a larger proportion of other justices on the panel were initially appointed by Democratic governors. Finally, dissent aversion does not appear to be driving our reappointment findings; point estimates are relatively unchanged after removing dissenting votes from the sample.¹⁹

5.3 Robustness of Main Effects

Case/panel fixed effects; panel interactions; case-level analysis. The findings reported in Table 1 are robust to the inclusion of case fixed effects (Appendix Table 11) and panel fixed effects (Appendix Table 12) in addition to justice fixed effects. Interacting the proportions of other justices on a panel in reappointment and reappointment/reelection years when a case is decided and individual justices' reappointment and reappointment/reelection years, we find an additional 1.2 - 1.4 percentage point reduction in a justice's propensity to vote in favor of a defendant, as the proportion of other justices on the panel in reappointment years increases by two standard

¹⁹Table 10 in the Appendix includes all votes but models a dissenting vote as the outcome, rather than a pro-defendant vote. Although estimated coefficients are consistently negative for reappointment years, and consistently positive for the marginal effects of reappointment/reelection years, no calendar estimates are significant at conventional thresholds. These findings confirm that the calendar effects that we estimate for pro-defendant votes are not simply picking up calendar effects on dissenting votes.

deviations (Appendix Table 13 and Appendix Figure 4). The findings are also robust to a case-level analysis; an increase of two standard deviations in the proportion of justices in a reappointment year corresponds to a 0.8 - 1.3 point decrease in the percentage of cases decided in favor of the defendant (Appendix Table 14). These effects persist even in the set of cases in which there are no dissents.

Alternative measures of retention calendar. The findings are also robust to alternative specifications of the retention calendar, including quarters to retention (Appendix Table 15); including justice age as a covariate; six-month intervals to retention; yearly, six-month, or quarterly partitions of the year before retention (Appendix Table 16); and including months remaining on a justice’s appointment and electoral terms (Appendix Table 17). The findings are also robust to restricting the sample to the first reappointment cycle (Appendix Table 18)

Effect heterogeneity We find no effect heterogeneity in models that interact justices’ election calendars with whether a case originates in a justice’s own judicial district (Appendix Table 19), that interact both appointment and election effects with a justice’s average Democratic major party voteshare, for those justices for whom we have election data (Appendix Table 20), or that estimate a triple interaction including the calendar variables, a justice’s average Democratic major party voteshare, and the average Democratic major party voteshare of the other justices on the panel (Appendix Table 21).

Placebo retention calendars. Finally, we assessed the robustness of our estimates using simulations based on placebo retention calendars.²⁰ For each simulation, we estimate the model reported in Column (1) of Table 1. The p-value associated with the true reappointment year indicator is smaller than 99% of the placebo estimates; the p-value associated with the true reappointment year - 1 indicator is smaller than 95% of placebo estimates. In contrast, the p-values associated with the true reappointment/reelection year indicators fall within the 20th - 30th percentiles of the associated placebo estimates (Appendix Figure 5).

²⁰We generate 500 placebo reappointment and reelection year indicators for each justice in our sample for the period 2013-2017. For constitutional justices (who face 5-year reappointment terms), reappointment-only and reappointment/reelection years are drawn uniformly from the open interval $U(2013, 2017)$. For other justices (whose reappointment years coincide with reelection years), reappointment/reelection years are also drawn uniformly from $U(2013, 2017)$. Previous and subsequent retention events are then assigned according to judge type, with the additional constraint that reappointment and reelection events cannot occur after the mandatory retirement age of 70.

5.4 Causal Mechanisms for Reappointment Effects

The appointment effects that we observe are consistent with judicial anticipation of hostile gubernatorial scrutiny of pro-defendant rulings as reappointment approaches. Pro-defendant rulings may be more likely to draw negative media and/or voter attention, relative to anti-defendant rulings. Governors may have reelection incentives to want to minimize negative media attention directed at their appointees/reappointees. Further, governors may have considerably better information about justices' voting records, relative to voters in judicial elections.

Although we do not have access to the internal deliberations of New York State's Judicial Screening Committee, it seems clear from the Committee's questionnaire that the votes of Appellate Division judges in criminal cases may be relevant to their reappointment. Anecdotal evidence supports that inference. In December 1997, the *New York Times* reported on First Appellate Division Presiding Justice Francis Murphy's retirement from the appellate bench. Justice Murphy, who had reached the mandatory retirement age but who had applied for the first of three permissible two-year appointive terms, had been notified by the chair of the Screening Committee that he would not be reappointed by Governor Pataki. The *Times* reported: "Pataki administration officials have said that what set the Governor against Justice Murphy was not disputes over conflicts and attorney discipline, but his rulings in criminal law. Criminal appeals represent about 40 percent of the court's docket; convictions are upheld in upwards of 95 percent of the cases. But over the years, Justice Murphy's angry voice, upbraiding police officers for what he saw as illegal searches and coerced confessions, railing against prosecutors for withholding evidence from the defense, often stood in lone dissent against four other voices on judicial panels...at a charity dinner in mid-November, a friend of the judge's, Thomas B. Galligan, a retired State Supreme Court justice, bumped into James Gill, the chairman of the Governor's screening panel. According to Justice Galligan, Mr. Gill asked him to tell Justice Murphy that the Governor was disinclined to grant the two-year term because of their philosophical differences over criminal rulings."²¹

A natural question is how frequently Appellate Division justices seeking reappointment are denied reappointment. We do not have information on denied applications for reappointment. We can, however, observe when a justice eligible for reappointment disappears from our sample within 12 months of the end of an appointment term, and does not reappear as an appointee to a higher

²¹<https://www.nytimes.com/1997/12/14/nyregion/a-prominent-judge-retires-objecting-to-the-governor-s-litmus-test.html>

court (state or federal). These exits could be due to a failure to be reappointed, a resignation in anticipation of a failure to be reappointed, a resignation in anticipation of a failure to be reelected (for those exits that occur during reappointment years that are also reelection years), or a resignation for other reasons. The 80 justices in our estimation sample faced 62 reappointment events. 10 justices lost re-election bids, eliminating them from eligibility for reappointment. 5 justices exited the sample within 12 months prior to a reappointment event, including 4 justices who exited during a reappointment/reelection year, and one justice who exited during a reappointment-only year. According to judicial biographies, only one of these five judicial exits was due to appointment to higher office in the federal or state judiciary.²² Therefore, the rate of unexplained judicial exit in the year prior to a reappointment event is $4/52$, or 7.7%. This gives us an upper bound on the rate of failures to be reappointed.

We note that this apparently high rate of continuance in office does not necessarily indicate that reappointment is a rubber stamp. Our estimates indicate that Appellate Division justices are actively reducing pro-defendant votes as reappointment approaches. High rates of continuance in office could be endogenous to this strategic judicial behavior.

If justices' anticipation of hostile gubernatorial scrutiny of pro-defendant votes is the causal mechanism underlying our findings, there are additional observable implications. For example, we might expect larger appointment effects for justices who were initially appointed by a governor of a party different from the party of the sitting governor. Approaching reappointment, these justices may have incentives to make larger changes in their voting behavior, relative to justices initially appointed by a governor of the same party as the sitting governor, in order to signal to the reappointing governor that they can be trusted to vote in ways that will not generate adverse publicity for the reappointing governor. These opposite-party effects may be particularly strong for justices initially appointed by Democratic governors approaching reappointment by a Republican governor. These justices may have especially strong incentives to demonstrate their anti-defendant credentials to a reappointing governor likely to be suspicious of those credentials.

Table 22 in the Appendix replicates Table 1, but estimates heterogeneous appointment and election effects conditional on whether the sitting governor and the justice's initial appointing governor are of the same party. There continue to be no election effects for justices in any model.

²²Leslie Stein was appointed to the Court of Appeals in a reappointment/reelection year

However, we do see heterogeneous appointment effects. Justices initially appointed by a governor of the same party as the current governor exhibit no significant appointment effects, either overall or subsetted by the party of the initial appointing governor. We see appointment effects only for the subset of justices initially appointed by a governor of a party different than the party of the current governor; these justices decrease their average probability of voting for a defendant by 1.8 percentage points in their reappointment year ($p < .05$). Moreover, within this subset, reappointment effects are much larger for justices initially appointed by Democratic governors who are facing reappointment by a Republican governor. These justices decrease their average probability of voting for a defendant by 3 percentage points in their reappointment year ($p < .05$). By contrast, justices initially appointed by Republican governors facing reappointment by a Democratic governor decrease their average probability of voting for a defendant by 1.4 percentage points in their reappointment year, but this estimate is not significant at conventional thresholds.

These findings provide additional support for our hypothesized causal mechanism. Approaching judicial reappointment exerts a negative pressure on pro-defendant appellate votes that is concentrated among judges initially appointed by Democratic governors, facing reappointment by Republican governors. This is consistent with a causal mechanism by which governors exert additional hostile scrutiny of appellate judges' pro-defendant votes as reappointment approaches, particularly where appellate judges are suspected to have pro-defendant tendencies that may damage the electoral prospects of the reappointing governor.

Another implication of our hypothesized causal mechanism is that governors may exercise even greater hostile scrutiny of pro-defendant judicial votes in years when the governors themselves are seeking reelection. We would then expect even larger negative reappointment effects on pro-defendant votes in gubernatorial election years, relative to other years. Table 23 in the Appendix reports the estimates from interacting the two reappointment term variables with an indicator for gubernatorial election years (in our data, 2006, 2010, and 2014). We continue to see no reelection effects. Justices facing reappointment in years that are not gubernatorial election years are estimated to reduce pro-defendant votes by approximately 1.6 percentage points ($p < .01$). Consistent with a causal mechanism based on gubernatorial electoral incentives, we see an *additional* 2 - 2.3 percentage point reduction in pro-defendant votes in judicial reappointment years that coincide with gubernatorial reelection years ($p < .05$). These findings further support the existence of a

causal mechanism for the observed reappointment effect based on gubernatorial election incentives.

5.5 Heterogeneous Effects by Race/Ethnicity of Defendant

On July 31, 2018, the Staten Island Advance published an article about a 3-1 ruling from New York State’s Second Appellate Division. The ruling, in response to an appeal of a felony weapons conviction, affirmed the conviction and the sentence of 5 years of incarceration. The article did not identify the three appellate justices who voted to affirm the conviction. It identified by name only the appellate justice who voted to reverse the conviction, quoting extensively from her dissent. Accompanying the article was the mugshot of the African American defendant in the case.²³

More generally, our search for articles about rulings by New York’s appellate justices revealed that approximately 18% of articles about the justices’ rulings in criminal cases included photos or video footage of defendants, allowing readers to identify defendant race. We also know that Appellate Division justices have access to information on defendant race, even though defendants typically do not appear in court before the justices. Appellate Division rules of practice require appellants to submit complete copies of all submissions made to trial courts; in criminal cases these submissions will generally include arrest and criminal history reports, both of which identify defendant race.

An important question is whether Appellate Division justices respond differently to appeals in cases involving nonwhite defendants, as a reappointment event approaches. Existing work suggests both that media outlets may disproportionately report and/or report critically on pro-defendant rulings when the defendant is nonwhite; and that readers may respond more negatively to news reports of pro-defendant rulings in cases with nonwhite defendants (Entman and Gross, 2008). Given gubernatorial incentives to avoid negative publicity, either or both of these mechanisms could induce fewer pro-defendant appellate votes in cases involving nonwhite defendants, as a reappointment event approaches. Cases involving white defendants, by contrast, could largely escape this dynamic.²⁴

The slip opinions which provide our primary source of data on appellate justice rulings do not

²³https://www.silive.com/news/2018/07/appellate_court_upholds_new_br.html.

²⁴A growing body of literature documents the relevance of defendant race in criminal cases (Abrams, Bertrand and Mullainathan, 2012; Alesina and La Ferrara, 2014; Arnold, Dobbie and Yang, 2018; Cohen and Yang, 2019; Kastellec, 2021). Of particular relevance, Park (2017) found that approaching judicial elections increased incarceration sentences for Black defendants only. To date, however, we lack estimates of the relative effects of retention by election and retention by appointment, by race of defendant.

contain information about defendant race. To source information on defendant race for at least a subset of cases, we scraped inmate data from the New York State Department of Corrections and Community Supervision website.²⁵ The data scraped include 195,174 inmate records (129,165 unique individuals) in html format. We extracted structured data from these html records, including inmate name, date of birth, sex, intake date, race/ethnicity, and felony class of the top charge.²⁶ We then linked these data to the slip opinions using probabilistic matching techniques on defendant first and last name, sex, and date of conviction/intake.²⁷ We were able to match inmate records to 16,565 of the 37,920 criminal appeals in our slip opinion data. These 16,565 cases are associated with 75,286 judicial votes, 36,383 of which occur when an appellate justice is on both reappointment and reelection calendars.

The sample of slip opinions matched to DOC records is systematically different from the unmatched sample of opinions, as reported in Table 24 in the Appendix. Appeals from matched cases, all involving defendants who were incarcerated post-conviction on felony charges in a New York State correctional facility and whose records remain unsealed, are less likely to have been appealed by the prosecution, more likely to involve more serious (Class A and B) felonies, less likely to involve sex offender risk assessment, less likely to have been resolved by bench trial, and more likely to have been resolved by jury trial, relative to appeals from unmatched cases.

Although the sample of votes matched to DOC records is, overall, systematically different from the sample of unmatched votes, it remains relatively balanced on covariates across appellate justice reappointment and reelection calendars. Table 25 in the Appendix reports covariate balance on the sample of 36,383 appellate votes in cases matched to DOC inmate records, for justices on both reappointment and reelection calendars, across those calendars. As in the full sample of

²⁵<http://nysdoccslookup.doccs.ny.gov>. The site permits a user to search for an inmate or former inmate of a New York State correctional facility by first and last name, or abbreviations of first and last names.

²⁶The NYS DOC records do not include offenders aged 16-18 at time of offense; those defendants whose convictions have been reversed; and certain categories of defendants convicted of nonviolent crimes that do not fall under the Sex Offender Registration Act, whose records are sealed five years after all correctional supervision has ended, unless the defendant returns to prison.

²⁷Implemented with *fastLink* in R. We first imputed defendant sex from the defendant names in the slip opinions using the *gender* package in Python. We pre-processed the data by blocking on sex and last name (using k-means blocking on last name). We then matched the slip opinion data and the individual-level inmate data on first name, last name, and date of conviction/intake. We defined a successful match as one whose mean posterior probability exceeded 0.75. Finally, we post-processed the data so that all inmate intake dates occurred after the respective conviction dates. When a slip opinion was still matched to multiple inmate records, we selected matches with the smallest (positive) difference between intake and conviction dates. The mean posterior probability of matches in the final matched sample is 0.95.

justice votes, there are few differences in covariate means across appellate justice reappointment and reelection calendars in the sample of justice votes matched to DOC records.

We can also explore covariate balance within the subsamples of DOC-matched cases involving non-Hispanic white, Hispanic, and Black defendants, for cases occurring when appellate justices are on both reappointment and reelection calendars.²⁸ Table 8 in the Appendix reports variation in the probability of recusals within these subsamples; there is no variation in recusal rates within any of these subsamples, as a function of justices' reappointment and reelection calendars. Tables 26 - 28 in the Appendix report covariate balance in case facts by these subsamples; there are few imbalances. For the subsample of cases involving white defendants, we see a small decrease in cases involving class C felonies, and a small increase in cases involving class A2 felonies, during justices' reappointment years, relative to non-reappointment years. We would not expect this imbalance in case facts to confound the estimate of the effect of reappointment years on pro-defendant votes; as reported below, both class A2 and class C felonies are more likely to see pro-defendant votes, relative to class A1 felonies, but we can't reject the null that these effects are of similar magnitudes. Cases involving Black defendants heard during justices' reappointment years are less likely to involve A1 felonies, and more likely to involve B felonies, relative to cases involving Black defendants heard during non-reappointment years. We would expect this imbalance in case facts for Black defendants to work against finding decreases in pro-defendant votes during justices' reappointment years.

Tables 29 - 32 in the Appendix report the full sets of point estimates for Equation 1, using the samples of appellate votes matched to NYS DOC inmate records, for the full sample and for the subsamples of non-Hispanic white, Hispanic, and Black defendants, for those votes occurring when appellate justices are on both reappointment and reelection calendars. In these models we replace the case-level offense covariates extracted from the opinion texts with indicators for the felony class of the first offense recorded by the New York State Department of Corrections (with A1 felonies as the omitted category). We also include defendant age and sex as case covariates. We continue to include all other covariates from our main effect models, and to cluster errors on both justice and case.

In the full sample we see reappointment effects only in reappointment years, ranging from 2.6

²⁸Inmate race/ethnicity on DOC records is self-reported. We coded white non-Hispanic defendants as those who identify only as white; Hispanic defendants as those who identify as Hispanic or white/Hispanic; and Black defendants as those who identify as Black or Black/Hispanic.

- 2.8 percentage point reductions in the proportion of pro-defendant votes; we see no effects in years immediately preceding reappointment years. The baseline probability of a pro-defendant vote during non-reappointment years, while an appellate justice is still on both reappointment and reelection calendars, is 0.12 in the sample of cases matched to DOC records. The reappointment effect thus implies a 22 - 23 % reduction in the likelihood that a defendant sees a pro-defendant vote from an appellate justice in a reappointment year, relative to the baseline likelihood of pro-defendant votes in non-reappointment years. We see no marginal effects in years that are both reappointment and reelection years, or in the years immediately preceding reappointment/reelection years.²⁹

Table 2 reports the point estimates only for the effects of a justice's reappointment year, for each of the estimation samples. Table 2 reveals that the reappointment effect observed in the full sample appears only in cases involving Black defendants. In cases involving Black defendants, and only in these cases, Appellate Division justices are 3.3 - 3.5 percentage points less likely to vote in favor of defendants in reappointment years, relative to non-reappointment years. The baseline probability of a pro-defendant vote in cases involving Black defendants during non-reappointment years, while an appellate justice is still on both reappointment and reelection calendars, is 0.12. The appointment effect in these cases thus implies a 28 - 29 % reduction in the likelihood that a Black defendant gets a pro-defendant vote from an appellate justice in a reappointment year, relative to the baseline likelihood of such votes in non-reappointment years. We see no reappointment effects in cases involving non-Hispanic white or Hispanic defendants.

Rehavi and Starr (2014) suggest that racial disparities in case outcomes may also be driven by prosecutorial decisions. Although we lack data on prosecutors' charging decisions in these case, we can examine whether our findings of racial disparities in reappointment effects are being driven by variation in prosecutors' retention calendars. County district attorneys in New York are elected to four-year terms, the timing of which varies across counties. We identify district attorney election years for each of the counties in our data, and construct an indicator for whether a trial court ruling was issued in that district attorney's election year. We then interact this indicator with our appointment calendar indicators, for the overall sample matched to DOC records and for each of the samples subsetted by race/ethnicity. If prosecutors pursue cases against Black defendants more

²⁹The more complete offense data in the DOC records allow us to explore whether reappointment effects are heterogeneous by offense severity. Table 33 in the Appendix reports estimates for subsets of observations by DOC felony class. There are significant negative reappointment effects for B (more serious) and E (less serious) felonies; these findings do not indicate a consistent relationship between offense severity and reappointment effects.

Table 2: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Defendants Matched to DOC Data
Effect of Reappointment Year

	M1	M2	M3	M4	M5	M6
All (N = 36,382)	-0.027** (0.013)	-0.026* (0.014)	-0.026* (0.014)	-0.028** (0.013)	-0.028** (0.013)	-0.026** (0.012)
Non-Hispanic White Defendants (N = 8291)	-0.014 (0.031)	-0.011 (0.030)	-0.012 (0.029)	-0.013 (0.028)	-0.013 (0.028)	-0.010 (0.027)
Hispanic Defendants (N = 5789)	0.011 (0.031)	0.010 (0.031)	0.012 (0.030)	0.009 (0.030)	0.009 (0.030)	0.009 (0.030)
Black Defendants (N = 21,031)	-0.035** (0.017)	-0.034* (0.018)	-0.033* (0.018)	-0.034* (0.017)	-0.034* (0.017)	-0.033* (0.017)
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Prosecutor Appeals	No	Yes	Yes	Yes	Yes	Yes
Felony Class/Age/Gender	No	No	Yes	Yes	Yes	Yes
Jury/Bench	No	No	No	Yes	Yes	Yes
Panel Covs	No	No	No	No	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

aggressively during their reelection years, and if these reelection years are correlated with appellate justice reappointment calendars, we may find that the effects we have attributed to appellate justice reappointment incentives are in fact due to prosecutorial reelection incentives.

Table 34 in the Appendix reports these estimates. We continue to see reappointment but not marginal reelection effects in both the full sample and for Black defendants; there are no marginal effects as a function of prosecutorial election years. These findings suggest that our findings of racial disparities in retention effects are not being driven by prosecutorial retention incentives.

Appellate cases with Black defendants are however different on a number of dimensions, relative to appellate cases with non-Black defendants. As reported in Table 35 in the Appendix, appeals from convictions involving Black defendants involve more serious felonies, defendants who are younger, and defendants who are more likely to be male, relative to appeals from convictions involving non-Hispanic white defendants. As reported in Table 36 in the Appendix, differences in case and defendant characteristics between appeals from convictions involving Black defendants and those involving Hispanic defendants are less stark but still evident. These differences in case and defendant characteristics may be driving the variation in reappointment effects across cases subsetted by race/ethnicity. For example, as reappointment approaches appellate justices may be more likely to pull back on pro-defendant votes in cases involving more serious offenses, relative to cases involving less serious offenses. Because Black defendants are more likely to have been convicted of more serious offenses, the relationship between race and reappointment effects may be spurious. By matching cases with Black defendants to cases with white and Hispanic defendants on pre-ruling case and defendant covariates, we can potentially reduce the impact of these covariates on reappointment effects.

We match appeals with Black defendants to those with Hispanic and non-Hispanic white defendants using coarsened exact matching on pre-ruling case and defendant covariates (Iacus, King and Porro, 2012; King and Nielsen, 2019).³⁰ As reported in Tables 35 and 36 in the Appendix, after matching there are no longer any differences in the distributions of these covariates across these samples of cases.

Tables 37 and 38 in the Appendix report the full sets of point estimates from Equation 1, using the sample of appeals with Black defendants and weights derived from matching on pre-ruling

³⁰We implement the coarsened exact matching using the cem package in Stata 15.1 and the default binning algorithm.

Table 3: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Black Defendants Matched to Non-Hispanic White and Hispanic Defendants
Effect of Reappointment Year

	M1	M2	M3	M4	M5	M6
All Black Defendants (N = 21,031)	-0.035** (0.017)	-0.034* (0.018)	-0.033* (0.018)	-0.034* (0.017)	-0.034* (0.017)	-0.033* (0.017)
Black Dfndts Matched to Non-Hispanic White Dfndts (N = 20,994)	-0.048** (0.019)	-0.047** (0.019)	-0.046** (0.019)	-0.049*** (0.018)	-0.049*** (0.018)	-0.048*** (0.018)
Black Dfndts Matched to Hispanic Dfndts (N = 20,876)	-0.034* (0.020)	-0.033* (0.020)	-0.033* (0.019)	-0.034* (0.019)	-0.034* (0.019)	-0.033* (0.018)
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Prosecutor Appeals	No	Yes	Yes	Yes	Yes	Yes
Felony Class/Age/Gender	No	No	Yes	Yes	Yes	Yes
Jury/Bench	No	No	No	Yes	Yes	Yes
Panel Cvs	No	No	No	No	Yes	Yes
No Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

covariates. Table 3 reports the point estimates for the effect of reappointment year only. After matching to the distributions of pre-ruling covariates observed in the samples of appeals involving non-Hispanic white and Hispanic defendants, we continue to see reappointment effects in cases involving Black defendants, ranging from 3.3 - 3.4 percentage point decreases (28 - 29%) in pro-defendant votes for the sample matched to Hispanic defendants, and from 4.6 - 4.9 percentage point decreases (38 - 41%) in pro-defendant votes for the sample matched to white defendants.

5.6 Heterogeneous Effects by Panel Racial Composition

In the previous section, we document a negative influence of approaching reappointment on pro-defendant votes that is disproportionately more severe (as much as 2.5 times larger) in the subset of cases involving Black defendants, relative to the set of cases involving Hispanic or white defendants. We can also ask about the effects of appellate panel racial composition. We might expect that Black judges bring different experiences or concerns to criminal appeals involving Black defendants, relative to white judges. The literature reports differences in appellate decision-making induced by the racial composition of panels (Kastellec, 2013), including effects that vary by the race of defendant (Kastellec, 2021).³¹

In the sample of justice votes cast in cases for which we can identify defendant race/ethnicity (namely, cases matched to DOC records), 48.4% of panels are composed of only white justices; the remainder of panels are composed of justices of varying race/ethnicity. Table 4 presents estimates of the effects of reappointment year by defendant race/ethnicity and panel racial/ethnic composition. In the top panel, we report estimates for all-white panels; in the bottom panel, estimates for mixed-race panels.

The subsetting estimates reveal that panel racial/ethnic composition appears to play an important role in mediating the effect of reappointment incentives. We see no reappointment effects, either for the full sample or for any racial/ethnic subgroup, for cases heard by mixed-race appellate panels. We see strikingly large reappointment effects, both for the full sample and for cases involving Black defendants, for cases heard by all-white appellate panels. Among cases heard by all-white appellate panels, we see decreases in pro-defendant votes in justices' reappointment years

³¹In other contexts, Bayer, Hjalmarsson and Anwar (2012) find that the addition of even a single Black member to a jury pool eliminates the racial gap in conviction rates for cases involving Black and white defendants, and Abrams, Bertrand and Mullainathan (2012) find that Black judges have a smaller racial gap in sentencing Black and white defendants, relative to white judges.

Table 4: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Defendants Matched to DOC Data

Effect of Reappointment Year; Subsetted by Defendant Race/Ethnicity and Panel Racial Composition

	M1	M2	M3	M4	M5	M6
All-White Panels						
All Defendants (N = 17,603)	-0.045** (0.021)	-0.046** (0.021)	-0.046** (0.021)	-0.044** (0.022)	-0.045** (0.022)	-0.042* (0.021)
Non-Hispanic White Defendants (N = 5016)	-0.021 (0.037)	-0.018 (0.037)	-0.018 (0.036)	-0.015 (0.035)	-0.015 (0.034)	-0.009 (0.034)
Hispanic Defendants (N = 2183)	-0.044 (0.032)	-0.047 (0.030)	-0.048 (0.030)	-0.042 (0.031)	-0.042 (0.032)	-0.042 (0.032)
Black Defendants (N = 9837)	-0.062*** (0.021)	-0.065*** (0.021)	-0.063*** (0.021)	-0.063*** (0.022)	-0.065*** (0.023)	-0.062*** (0.021)
Mixed Race Panels						
All Defendants (N = 18,779)	-0.008 (0.012)	-0.005 (0.011)	-0.005 (0.011)	-0.011 (0.012)	-0.012 (0.012)	-0.011 (0.012)
Non-Hispanic White Defendants (N = 3,273)	0.004 (0.049)	0.006 (0.047)	0.009 (0.048)	0.001 (0.047)	-0.000 (0.047)	0.002 (0.045)
Hispanic Defendants (N = 3,604)	0.029 (0.035)	0.029 (0.036)	0.032 (0.035)	0.022 (0.036)	0.022 (0.037)	0.024 (0.036)
Black Defendants (N = 11,193)	-0.008 (0.012)	-0.005 (0.011)	-0.005 (0.011)	-0.011 (0.012)	-0.012 (0.012)	-0.011 (0.012)
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Prosecutor Appeals	No	Yes	Yes	Yes	Yes	Yes
Age/Sex/Felony Class	No	No	Yes	Yes	Yes	Yes
Jury/Bench	No	No	No	Yes	Yes	Yes
Panel Covs	No	No	No	No	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

ranging from 4.2 - 4.6 percentage points for the full sample, and from 6.2 - 6.5 percentage points (49 - 52%) for the sample of cases involving Black defendants. Among cases heard by all-white appellate panels, we see no reappointment effects in cases involving white or Hispanic defendants. These estimates suggest the importance of both defendant race and judge race in criminal cases (Abrams, Bertrand and Mullainathan, 2012; Kastellec, 2021).

6 Conclusion

A number of studies suggest that judicial retention through election induces larger effects on judicial decision-making in criminal cases than retention through appointment (Shepherd, 2009*b*; Iaryczower, Lewis and Shum, 2013; Canes-Wrone, Clark and Kelly, 2014). This evidence has led some to advocate against the use of elections for judicial retention (e.g., Geyh, 2019). Yet existing work has been constrained to cross-institutional estimates. Case selection effects across retention institutions may undermine the ability to accurately estimate the causal effects of those institutions on judicial decisions (Besley and Payne, 2013).

In New York State, intermediate appellate justices must be elected, and re-elected, in contested partisan elections in order to be eligible for gubernatorial appointment, and reappointment, as Appellate Division justices. This unique institutional design enables us to estimate the within-justice relative effects of both reappointment and reelection on appellate justice decisions, using the same sample of cases. In contrast to the existing literature on judicial retention, we find that impending reappointment induces fewer pro-defendant votes in criminal appeals, but find no additional effects of impending reelection. We further find that the negative effect of approaching reappointment on pro-defendant votes in criminal appeals appears only in cases involving Black defendants. Our findings suggest that appellate justices in New York State are approximately 28 - 29% less likely to vote in favor of Black defendants in their reappointment years. Years in which appellate justices must be both reappointed and reelected have no additional effect on their votes. We see no reappointment or reelection effects in cases involving white or non-Hispanic white defendants. After weighting cases involving Black defendants to match the distribution of pre-ruling covariates observed for cases involving white defendants, these appointment year decreases in pro-defendant votes for cases involving Black defendants range from 38 - 41%.

Finally, we find that this racial disparity in reappointment effects appears only in cases heard

by all-white appellate panels. Among these cases, and these cases only, we see decreases in pro-defendant votes in justices' reappointment years ranging from 49 - 52% for the sample of cases involving Black defendants. We continue to see no reappointment effects in cases involving white or Hispanic defendants.

Our findings suggest the need for greater attention devoted both to potential selection effects in studies of judicial retention institutions, and to heterogeneous effects by race of defendant and judge.

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7 Appendix

7.1 Descriptive Analyses

Figure 2: New York State Appellate Divisions



Table 5: Criminal Appeals to NYS Appellate Division, 2003-2017
N = 37,920

	Mean	SD	Min	Max
Prosecutor Appeals	0.016	0.13	0	1
“Reversed”	0.08	0.27	0	1
“Modified”	0.07	0.26	0	1
Ruling Reversed	0.14	0.35	0	1
“Dissent”	0.013	0.11	0	1
Number Justices	4.58	0.50	1	5
Class A Felony	0.12	0.33	0	1
Class B Felony	0.34	0.47	0	1
Sex Offender	0.12	0.33	0	1
Guilty Plea	0.55	0.50	0	1
Jury Trial	0.40	0.49	1	5
Nonjury Trial	0.05	0.22	1	5

Table 6: Covariate Balance
Justices on Both Reappointment and Reelection Calendars
N = 83,453

	Baseline	Reappt Only Yr	Reappt/ Reelection Yr
Prosecutor Appeals	0.017	0.015	0.019
Class A Felony	0.14	0.13	0.13
Class B Felony	0.38	0.39	0.38
Sex Offender	0.12	0.13	0.13
Guilty Plea	0.56	0.57	0.58
Jury Trial	0.39	0.39	0.38
Bench Trial	0.05	0.04	0.05
N	73,880	1,693	7,880

** p<.05, *** p<.01; differences in means tests between baseline and reappointment-only justice votes, and between reappointment-only and reappointment/reelection justice votes.

Table 7: First And Second Appellate Division Monthly Caseloads, 2013-2019
Justices on Both Reappointment and Reelection Calendars
Avg Share of Monthly Assigned Caseload Comprising Criminal Cases

	Baseline	Reappt Only Yr	Reappt/ Reelection Yr
All Justice-Months (N = 705)	0.26	0.26	0.29
Upper Tercile Pro-Defendant Justice-Months (N = 398)	0.26	0.28	0.30

** p<.05, *** p<.01; differences in means tests between baseline and reappointment-only justice-months, and between reappointment-only and reappointment/re-election justice-months.

Table 8: First And Second Division Recusals, 2013-2017
Justices on Both Reappointment and Reelection Calendars
DV = Absence of Vote in Assigned Case (0/1)

	All Dfndts	Non-Hispanic White Dfndts	Hispanic Dfndts	Black Dfndts
Reappt Yr	0.043 (0.022)	0.008 (0.021)	-0.067 (0.053)	0.007 (0.009)
Reappt Yr - 1	0.012 (0.010)	0.018 (0.024)	-0.021 (0.035)	0.012 (0.015)
Reappt/Reelect Yr	-0.046 (0.024)	-0.038 (0.042)	0.060 (0.050)	-0.019 (0.023)
Reappt/Reelect Yr - 1	-0.018 (0.011)	-0.020 (0.026)	0.016 (0.025)	-0.019 (0.021)
N	8725	239	831	1685
Justice FE	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes
SE Clustered on Justice/Case	Yes	Yes	Yes	Yes

** p<.05, *** p<.01.

7.2 Main Specification: Detailed Results

Table 9: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.019*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)
Reappt Yr - 1	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)
Reappt/Reelect Yr	0.009 (0.007)	0.007 (0.008)	0.007 (0.008)	0.006 (0.008)	0.007 (0.008)	0.007 (0.008)
Reappt/Reelect Yr - 1	0.008 (0.007)	0.008 (0.007)	0.007 (0.007)	0.006 (0.007)	0.007 (0.007)	0.007 (0.007)
Pros Appeals		0.271*** (0.029)	0.276*** (0.028)	0.294*** (0.029)	0.296*** (0.029)	0.293*** (0.029)
A Felony			0.021** (0.010)	-0.008 (0.009)	-0.008 (0.009)	-0.008 (0.009)
B Felony			0.028*** (0.010)	0.024*** (0.008)	0.023*** (0.008)	0.024*** (0.008)
Sex Offender Registry			0.007 (0.011)	0.029** (0.011)	0.028** (0.011)	0.028** (0.011)
Jury Trial				0.105*** (0.008)	0.104*** (0.008)	0.104*** (0.008)
Bench Trial				0.059*** (0.015)	0.059*** (0.015)	0.059*** (0.015)
% Dem Panel					0.022** (0.009)	0.023** (0.009)
% Reappt Yr Panel					-0.011 (0.015)	-0.012 (0.015)
% Reappt/Reelect Yr Panel					-0.001 (0.024)	-0.000 (0.024)
Constant	0.110*** (0.016)	0.105*** (0.016)	0.098*** (0.017)	0.070*** (0.018)	0.063*** (0.018)	0.061*** (0.018)
N	83453	83453	83453	83453	83453	83138
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

** p<.05, *** p<.01.

Figure 3: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars



main_estimates_plot.pdf

See Table 1.

Table 10: Appellate Justice Dissenting Votes
Justices on Both Reappointment and Reelection Calendars

	M1	M2	M3	M4	M5
Reappt Yr	-0.000 (0.001)	-0.000 (0.001)	-0.000 (0.001)	-0.000 (0.001)	-0.000 (0.001)
Reappt Yr - 1	-0.000 (0.001)	-0.000 (0.001)	-0.000 (0.001)	-0.000 (0.001)	-0.000 (0.001)
Reappt/Reelect Yr	0.001 (0.002)	0.001 (0.002)	0.001 (0.002)	0.001 (0.002)	0.000 (0.002)
Reappt/Reelect Yr - 1	0.000 (0.001)	0.000 (0.001)	0.000 (0.001)	0.000 (0.001)	0.000 (0.001)
Pros Appeals		0.009*** (0.003)	0.009** (0.003)	0.009*** (0.003)	0.009*** (0.003)
A Felony			0.002 (0.001)	0.001 (0.001)	0.001 (0.001)
B Felony			-0.001 (0.001)	-0.001 (0.001)	-0.001 (0.001)
Sex Offender Registry			-0.001 (0.001)	-0.001 (0.001)	-0.001 (0.001)
Jury Trial				0.003*** (0.001)	0.003*** (0.001)
Bench Trial				0.002 (0.002)	0.002 (0.002)
% Dem Panel					-0.002 (0.001)
% Reappt Yr Panel					0.000 (0.002)
% Reappt/Reelect Yr Panel					-0.004 (0.003)
Constant	0.002 (0.001)	0.002 (0.001)	0.002 (0.001)	0.001 (0.001)	0.002 (0.001)
N	83453	83453	83453	83453	83453
Justice FE	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes

* p<.10, ** p<.05, *** p<.01.

7.3 Robustness

7.3.1 Justice-Level Vs. Panel-Level Retention Effects

As retention pressures must be filtered through the appellate decision-making process, this section investigates whether our main findings manifest at the justice level, panel level, or both. First, to examine whether individual-level reappointment effects occur, we re-ran the primary analysis, including case fixed effects along with justice fixed effects. Case fixed effects absorb all contextual factors unique to each case that may influence the votes of all the justices hearing that case, including both case-specific covariates and year and month fixed effects. While the reappointment year effect remains negative and significant at conventional thresholds, the marginal effects of reelection are imprecisely estimated and vary in direction (see Appendix Table 11).

Table 11: Pro-Defendant Appellate Justice Votes
Including Case Fixed Effects

Reappt Yr	-0.004** (0.002)
Reappt Yr - 1	-0.001 (0.002)
Reappt/Reelect Yr	0.003 (0.002)
Reappt/Reelect Yr - 1	-0.001 (0.002)
N	75836
Judge FE	Yes
Case FE	Yes
SE Clustered Justice/Case	Yes

** p<.05, *** p<.01.

We can also include panel fixed effects along with justice fixed effects, allowing for the possibility that there may be habits of interaction within each unique combination of justices that exert a common effect on judicial votes. Appendix Table 12 reports these estimates, which are largely unchanged from Table 1.

Next, we investigate whether panel characteristics may moderate these retention incentives. Appendix Table 13 includes interactions between the proportions of other justices on a panel in reappointment and reappointment/reelection years when a case is decided and individual justices'

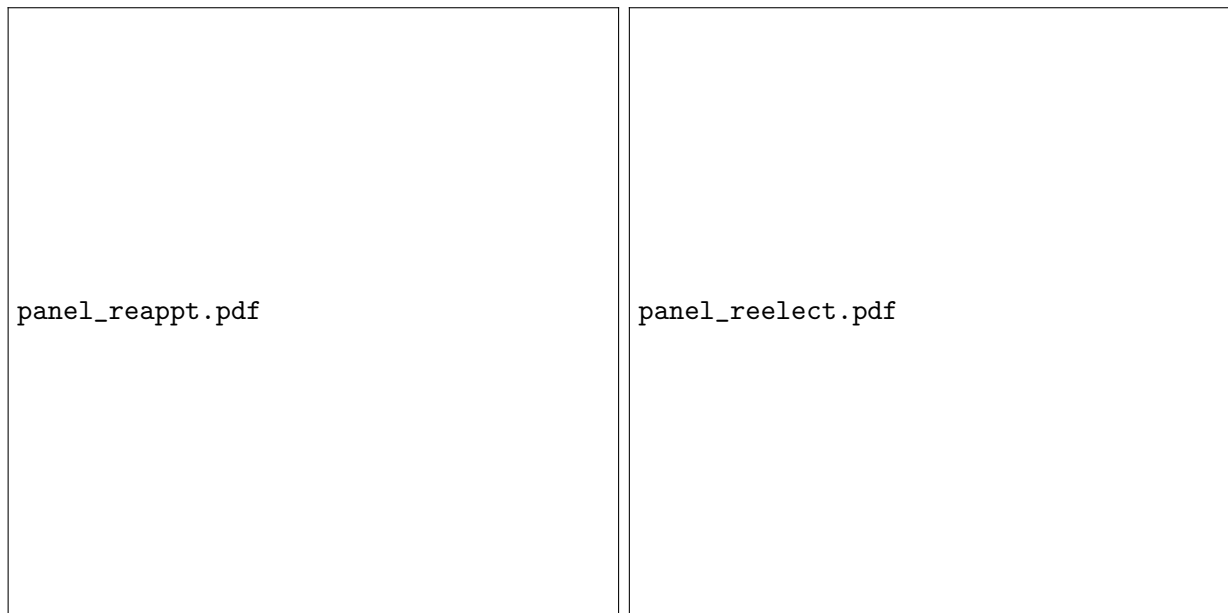
Table 12: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Including Panel Fixed Effects

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.017** (0.008)	-0.016** (0.008)	-0.016** (0.008)	-0.017** (0.008)	-0.017** (0.008)	-0.016* (0.009)
Reappt Yr - 1	-0.017** (0.006)	-0.018*** (0.007)	-0.018*** (0.007)	-0.019** (0.008)	-0.020** (0.008)	-0.020** (0.008)
Reappt/Reelect Yr	-0.003 (0.012)	-0.006 (0.013)	-0.006 (0.012)	-0.005 (0.012)	-0.005 (0.012)	-0.004 (0.012)
Reappt/Reelect Yr - 1	0.008 (0.009)	0.009 (0.009)	0.009 (0.009)	0.008 (0.009)	0.009 (0.010)	0.009 (0.010)
Pros Appeals		0.273*** (0.028)	0.276*** (0.027)	0.299*** (0.030)	0.299*** (0.030)	0.298*** (0.030)
A Felony			0.009 (0.010)	-0.007 (0.010)	-0.007 (0.010)	-0.007 (0.010)
B Felony			0.016 (0.010)	0.018* (0.009)	0.018* (0.009)	0.018** (0.009)
Sex Offender Registry			-0.001 (0.011)	0.022** (0.011)	0.022** (0.011)	0.022** (0.011)
Jury Trial				0.093*** (0.013)	0.093*** (0.013)	0.092*** (0.013)
Bench Trial				0.045** (0.018)	0.045** (0.018)	0.045** (0.018)
% Dem Panel					-1.389*** (0.274)	0.000 (.)
% Reappt Yr Panel					-0.021 (0.022)	-0.025 (0.023)
% Reappt/Reelect Yr Panel					-0.002 (0.039)	-0.000 (0.039)
Constant	0.101*** (0.030)	0.097*** (0.029)	0.093*** (0.030)	0.059* (0.032)	0.736*** (0.131)	0.059* (0.032)
N	82115	82115	82115	82115	82115	81826
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
Panel FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
No Dissenting Votes	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

reappointment and reappointment/reelection years. Although imprecisely estimated, the interaction estimates suggest an additional 1.2 - 1.4 percentage point reduction in a justice's propensity to vote in favor of a defendant, as the proportion of other justices on the panel in reappointment years increases by two standard deviations. We plot the interaction estimates in Appendix Figure 4.

Figure 4: Pro-Defendant Appellate Justice Votes
Interacting with Other Panelists' Calendars



Furthermore, collapsing the vote-level to the case-level, we find that the same shift in the proportion of justices in a reappointment year corresponds to a 0.8-1.3 point decrease in the percentage of cases decided in favor of the defendant (see Appendix Table 14). These effects persist even in the set of cases in which there are no dissents. On the contrary, we cannot reject the null hypothesis that pro-defendant rulings are unaffected by the proportion of justices in both reappointment and reelection years across both analysis levels. In combination, these findings suggest that retention, particularly reappointment, influences both individual justices' and panels' decision-making.

Table 13: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Interacting Judge and Panel Reappointment Timing

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.015** (0.006)	-0.015** (0.006)	-0.015** (0.006)	-0.014** (0.006)	-0.015** (0.006)	-0.014** (0.006)
Reappt Yr - 1	-0.013** (0.006)	-0.014** (0.006)	-0.014** (0.006)	-0.014** (0.007)	-0.014** (0.007)	-0.014** (0.007)
Reappt/Reelect Yr	0.008 (0.007)	0.006 (0.007)	0.006 (0.008)	0.005 (0.008)	0.006 (0.008)	0.006 (0.008)
Reappt/Reelect Yr - 1	0.009 (0.006)	0.010 (0.006)	0.010 (0.006)	0.008 (0.007)	0.008 (0.007)	0.008 (0.007)
% Reappt Yr Panel	0.002 (0.017)	-0.005 (0.016)	-0.004 (0.016)	-0.001 (0.016)	-0.001 (0.016)	-0.003 (0.017)
% Reappt Yr Panel X	-0.047* (0.028)	-0.045 (0.028)	-0.044 (0.028)	-0.044 (0.027)	-0.043 (0.027)	-0.041 (0.027)
Reappt Yr						
% Reappt Yr Panel X	-0.037 (0.027)	-0.029 (0.027)	-0.030 (0.027)	-0.025 (0.027)	-0.023 (0.027)	-0.022 (0.028)
Reappt Yr - 1						
% Reappt/Reelect Yr Panel	-0.013 (0.026)	-0.007 (0.026)	-0.007 (0.026)	-0.007 (0.025)	-0.004 (0.025)	-0.004 (0.026)
% Reappt/Reelect Yr Panel X	0.070 (0.060)	0.066 (0.060)	0.066 (0.060)	0.069 (0.059)	0.066 (0.058)	0.060 (0.059)
Reappt/Reelect Yr						
% Reappt/Reelect Yr Panel X	-0.003 (0.050)	-0.047 (0.058)	-0.046 (0.058)	-0.056 (0.059)	-0.055 (0.059)	-0.051 (0.059)
Reappt/Reelect Yr - 1						
Pros Appeals		0.272*** (0.028)	0.277*** (0.028)	0.296*** (0.030)	0.297*** (0.030)	0.294*** (0.030)
A Felony			0.021** (0.010)	-0.009 (0.010)	-0.009 (0.010)	-0.009 (0.010)
B Felony			0.028*** (0.010)	0.022** (0.009)	0.022** (0.009)	0.023*** (0.009)
Sex Offender Registry			0.007 (0.011)	0.030*** (0.011)	0.030*** (0.011)	0.030*** (0.011)
Jury Trial				0.107*** (0.011)	0.106*** (0.011)	0.106*** (0.011)
Bench Trial				0.061*** (0.017)	0.060*** (0.017)	0.060*** (0.017)
% Dem Panel					0.022** (0.009)	0.023** (0.009)
Constant	0.110*** (0.016)	0.106*** (0.016)	0.099*** (0.017)	0.069*** (0.018)	0.061*** (0.018)	0.059*** (0.018)
N	82115	82115	82115	82115	82115	81826
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
Panel FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
No Dissenting Votes	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

Table 14: Pro-Defendant Appellate Justice Decisions
Case-Level Estimates

	M1	M2	M3	M4	M5	M6
Proportion Reappt Yr	-0.033*** (0.012)	-0.033*** (0.012)	-0.030** (0.012)	-0.020* (0.012)	-0.028** (0.012)	-0.028** (0.012)
Proportion Reappt Yr - 1	-0.015 (0.012)	-0.016 (0.011)	-0.013 (0.011)	-0.006 (0.011)	-0.013 (0.012)	-0.015 (0.012)
Proportion Reelect Yr	0.018 (0.019)	0.015 (0.019)	0.012 (0.019)	0.007 (0.019)	0.011 (0.019)	0.013 (0.019)
Proportion Reappt/Reelect Yr - 1	0.024 (0.019)	0.021 (0.019)	0.017 (0.019)	0.005 (0.019)	0.010 (0.019)	0.013 (0.019)
Pros Appeals		0.275*** (0.020)	0.279*** (0.020)	0.292*** (0.020)	0.292*** (0.020)	0.301*** (0.020)
A Felony			0.018** (0.009)	-0.015* (0.009)	-0.014 (0.009)	-0.016* (0.009)
B Felony			0.024*** (0.006)	0.009 (0.006)	0.010* (0.006)	0.011* (0.006)
Sex Offender Registry			0.006 (0.009)	0.024*** (0.009)	0.024*** (0.009)	0.027*** (0.009)
Jury Trial				0.088*** (0.005)	0.090*** (0.005)	0.086*** (0.005)
Bench Trial				0.053*** (0.012)	0.054*** (0.012)	0.051*** (0.012)
Proportion Democrat					-0.027** (0.012)	-0.017 (0.011)
Constant	0.114*** (0.015)	0.111*** (0.015)	0.105*** (0.015)	0.089*** (0.015)	0.091*** (0.015)	0.090*** (0.015)
N	37,920	37,920	37,920	37,920	37,920	37,426
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
No Dissents	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

7.3.2 Alternative Measures of Retention Calendar

Next, we explore the robustness of our main effects to alternative specifications of the retention calendar. Appendix Table 15 replicates the baseline model using quarters to retention instead of years to retention for the two years preceding retention events. Appendix Table 16 presents alternative calendar specifications for the covariate-adjusted model: (a) re-estimating our primary yearly retention calendar including justice age, (b) replicating our main results using six-month bins to retention, and (c) including yearly, six-month, or quarterly partitions of the year before retention.

Since reelection events occur less frequently than reappointment events, justices experiencing reappointment/reelection events may be older on average than justices experiencing reappointment-only events. Column 1 of Table 16 addresses the possible correlation of justice age with the slightly longer average length of electoral terms, relative to appointment terms. To account for differences in appointive and elective term lengths, Appendix Table 17 reports estimates after including months remaining on a justice's appointment and electoral terms.

Across all specifications, estimates of the effects of both reappointment and reappointment/reelection are virtually unchanged, while there are no marginal reelection effects.

Another possible implication of the difference between appointive and elective term lengths is that the reappointment/reelection events that we observe could be less likely to be first reappointment events. Suppose reappointment effects are largest for first reappointment events and decrease in magnitude for subsequent reappointment events. In that case, reelection estimates would be downward biased. Appendix Table 18 reports estimates from the sample restricted to the first reappointment cycle; these results are largely consistent with estimates from the full sample.³²

³²87% of the votes in our sample occur during first reappointment cycles, diminishing our ability to explore any changes in the effects of reappointment events in reappointment cycles that occur after first reappointment cycles.

Table 15: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Quarters to Reappointment/Reelection

	M1	M2	M3	M4	M5	M6
Reappt Quarter	-0.002 (0.009)	-0.003 (0.010)	-0.003 (0.010)	0.001 (0.010)	0.000 (0.010)	0.001 (0.010)
Reappt Quarter -1	-0.039** (0.018)	-0.037** (0.017)	-0.038** (0.017)	-0.039** (0.016)	-0.040** (0.016)	-0.040** (0.016)
Reappt Quarter -2	-0.020* (0.011)	-0.019* (0.010)	-0.019* (0.010)	-0.021* (0.011)	-0.021* (0.011)	-0.021* (0.011)
Reappt Quarter -3	-0.016** (0.007)	-0.014* (0.007)	-0.013** (0.007)	-0.013* (0.007)	-0.013* (0.007)	-0.013* (0.007)
Reappt Quarter -4	-0.004 (0.010)	-0.003 (0.010)	-0.003 (0.010)	-0.001 (0.010)	-0.002 (0.010)	-0.000 (0.011)
Reappt Quarter -5	-0.014 (0.014)	-0.013 (0.015)	-0.012 (0.015)	-0.011 (0.015)	-0.012 (0.015)	-0.012 (0.015)
Reappt Quarter -6	-0.012 (0.013)	-0.014 (0.013)	-0.015 (0.013)	-0.014 (0.013)	-0.015 (0.013)	-0.015 (0.013)
Reappt Quarter -7	-0.017 (0.014)	-0.018 (0.014)	-0.018 (0.014)	-0.019 (0.013)	-0.019 (0.013)	-0.019 (0.014)
Reelect Quarter	0.006 (0.012)	0.008 (0.013)	0.007 (0.013)	0.003 (0.014)	0.005 (0.013)	0.005 (0.013)
Reelect Quarter - 1	0.014 (0.018)	0.013 (0.017)	0.013 (0.017)	0.014 (0.016)	0.015 (0.016)	0.016 (0.017)
Reelect Quarter - 2	0.006 (0.012)	0.003 (0.012)	0.003 (0.012)	0.006 (0.013)	0.007 (0.013)	0.007 (0.013)
Reelect Quarter - 3	0.013 (0.011)	0.010 (0.010)	0.010 (0.010)	0.007 (0.011)	0.008 (0.011)	0.008 (0.011)
Reelect Quarter - 4	0.006 (0.014)	0.004 (0.014)	0.003 (0.014)	-0.001 (0.014)	0.000 (0.014)	-0.000 (0.014)
Reelect Quarter - 5	0.006 (0.014)	0.007 (0.015)	0.006 (0.015)	0.005 (0.015)	0.005 (0.015)	0.006 (0.015)
Reelect Quarter - 6	0.007 (0.015)	0.006 (0.015)	0.005 (0.015)	0.005 (0.015)	0.006 (0.015)	0.006 (0.015)
Reelect Quarter - 7	0.013 (0.014)	0.015 (0.014)	0.014 (0.014)	0.011 (0.014)	0.013 (0.014)	0.013 (0.014)
Pros Appeals		0.271*** (0.029)	0.276*** (0.028)	0.295*** (0.030)	0.296*** (0.030)	0.294*** (0.030)
A Felony			0.021** (0.010)	-0.008 (0.010)	-0.008 (0.010)	-0.008 (0.010)
B Felony			0.028*** (0.010)	0.022** (0.009)	0.022** (0.009)	0.023*** (0.009)
Sex Offender Registry			0.007 (0.011)	0.030*** (0.011)	0.030*** (0.011)	0.030*** (0.011)
Jury Trial				0.107*** (0.011)	0.106*** (0.011)	0.106*** (0.011)
Bench Trial				0.061*** (0.017)	0.061*** (0.017)	0.061*** (0.017)
% Dem Panel					0.022** (0.009)	0.023** (0.009)
% Reappt Yr Panel					-0.011 (0.015)	-0.012 (0.015)
% Reappt/Reelect Yr Panel					-0.002 (0.024)	-0.002 (0.024)
Constant	0.111*** (0.017)	0.106*** (0.017)	0.099*** (0.017)	0.070*** (0.018)	0.063*** (0.019)	0.062*** (0.019)
N	83453	83453	83453	83453	83453	83138
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

Table 16: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Alternative Calendar Specifications

	M1	M2	M3	M4	M5
Reappt Yr	-0.018*** (0.006)		-0.011** (0.005)		
Reappt Yr - 1	-0.016** (0.007)				
Reappt Six Mon		-0.014* (0.008)		-0.009 (0.008)	
Reappt Six Mon - 1		-0.018*** (0.006)		-0.011*** (0.004)	
Reappt Six Mon - 2		-0.006 (0.006)			
Reappt Six Mon - 3		0.000 (0.000)			
Reappt Quarter					0.007 (0.008)
Reappt Quarter -1					-0.036** (0.016)
Reappt Quarter -2					-0.017** (0.008)
Reappt Quarter -3					-0.007 (0.008)
Reappt/Reelect Yr	0.007 (0.008)		0.004 (0.007)		
Reappt/Reelect Yr - 1	0.007 (0.007)				
Reappt/Reelect Six Mon		0.001 (0.007)		-0.004 (0.006)	
Reappt/Reelect Six Mon - 1		0.008 (0.008)		0.000 (0.008)	
Reappt/Reelect Six Mon - 2		0.000 (0.000)			
Reappt/Reelect Six Mon - 3		0.010 (0.007)			
Reelect Quarter					0.000 (0.012)
Reelect Quarter - 1					0.015 (0.016)
Reelect Quarter - 2					0.005 (0.011)
Reelect Quarter - 3					0.005 (0.011)
Justice Age	0.004*** (0.002)				
Constant	-0.145 (0.090)	0.062*** (0.018)	0.064*** (0.018)	0.062*** (0.018)	0.064*** (0.019)
N	83453	83453	83453	83453	83453
Justice FE	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes
Prosecutor Appeals	Yes	Yes	Yes	Yes	Yes
Felony Class/Sex Offender	Yes	Yes	Yes	Yes	Yes
Jury/Bench	Yes	Yes	Yes	Yes	Yes
Panel Covs	Yes	Yes	Yes	Yes	Yes

* p<.10, ** p<.05, *** p<.01.

Table 17: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Including Months Remaining on Appointive/Elective Terms

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.022*** (0.006)	-0.021*** (0.006)	-0.021*** (0.006)	-0.022*** (0.006)	-0.023*** (0.006)	-0.022*** (0.006)
Reappt Yr - 1	-0.017** (0.007)	-0.018** (0.007)	-0.018** (0.007)	-0.019*** (0.007)	-0.019*** (0.007)	-0.019*** (0.007)
Reappt/Reelect Yr	0.011 (0.008)	0.009 (0.008)	0.009 (0.008)	0.010 (0.009)	0.011 (0.008)	0.012 (0.008)
Reappt/Reelect Yr - 1	0.009 (0.008)	0.010 (0.008)	0.009 (0.008)	0.009 (0.008)	0.010 (0.007)	0.010 (0.007)
Months Left: Appointive Term	-0.000 (0.000)	-0.000 (0.000)	-0.000 (0.000)	-0.000 (0.000)	-0.000 (0.000)	-0.000 (0.000)
Months Left: Elective Term	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)
N	83453	83453	83453	83453	83453	83138
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Prosecutor Appeals	No	Yes	Yes	Yes	Yes	Yes
Felony Class/Sex Offender	No	No	Yes	Yes	Yes	Yes
Jury/Bench	No	No	No	Yes	Yes	Yes
Panel Cvs	No	No	No	No	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

Table 18: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Votes Preceding First Reappointment Events

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.023* (0.011)	-0.022* (0.011)	-0.022* (0.011)	-0.023* (0.012)	-0.023* (0.012)	-0.023* (0.013)
Reappt Yr - 1	-0.029*** (0.005)	-0.030*** (0.005)	-0.030*** (0.005)	-0.029*** (0.005)	-0.030*** (0.005)	-0.030*** (0.006)
Reappt/Reelect Yr	0.009 (0.014)	0.008 (0.013)	0.008 (0.014)	0.008 (0.015)	0.009 (0.015)	0.010 (0.016)
Reappt/Reelect Yr - 1	0.017** (0.006)	0.016** (0.006)	0.016** (0.006)	0.015* (0.007)	0.016** (0.008)	0.016** (0.008)
Pros Appeals		0.275*** (0.030)	0.279*** (0.029)	0.296*** (0.031)	0.297*** (0.030)	0.296*** (0.031)
A Felony			0.016 (0.010)	-0.010 (0.010)	-0.010 (0.010)	-0.010 (0.010)
B Felony			0.020* (0.010)	0.018** (0.008)	0.018** (0.008)	0.019** (0.008)
Sex Offender Registry			0.008 (0.011)	0.028** (0.011)	0.028** (0.011)	0.028** (0.011)
Jury Trial				0.100*** (0.008)	0.100*** (0.008)	0.099*** (0.008)
Bench Trial				0.051*** (0.015)	0.051*** (0.015)	0.051*** (0.014)
% Dem Panel					0.014 (0.010)	0.015 (0.010)
% Reappt Yr Panel					-0.012 (0.016)	-0.012 (0.016)
% Reappt/Reelect Yr Panel					0.005 (0.025)	0.004 (0.025)
Constant	0.111*** (0.018)	0.106*** (0.017)	0.101*** (0.018)	0.076*** (0.020)	0.071*** (0.020)	0.070*** (0.020)
Total Effect Reappt/Reelect Yr	-0.013* 0.063	-0.015** 0.049	-0.015** 0.050	-0.015* 0.081	-0.014* 0.083	-0.013 0.103
Total Effect Reappt/Reelect Yr - 1	-0.013** 0.024	-0.014** 0.017	-0.014** 0.017	-0.015** 0.018	-0.015** 0.018	-0.013** 0.065
N	72439	72439	72439	72439	72439	72155
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

7.3.3 Effect Heterogeneity

The absence of any election effects from what appear to be relatively competitive partisan judicial elections is surprising. It is possible that election effects exist, but only for subsets of cases relevant for an appellate justice’s reelection. Appendix Table 19 replicates Table 1, but estimates heterogeneous election effects conditional on whether a case originates in a justice’s own judicial district. There are still no election effects, including no marginal effects conditional on a case originating in a justice’s home district. There continue to be negative and significant appointment effects on pro-defendant votes in the last and next to last years of an appellate justice’s appointment term.

It is also possible that election effects exist but are working in different directions for different justices. Justices more dependent on Democratic electoral support might be induced to cast more pro-defendant votes as an election approaches; justices more dependent on Republican electoral support might face pressures to cast fewer pro-defendant votes. These effects might offset each other in the full sample. Appointment effects might also be heterogeneous by justices’ electoral support. Finally, retention effects may depend on the partisanship of the other panelists.

Appendix Table 20 replicates Table 1 for the last years of a justice’s reappointment and reelection terms but estimates heterogeneous appointment and election effects conditional on a justice’s average Democratic major party voteshare, for those justices for whom we have election data. To explore heterogeneous effects by the Democratic electoral support of other panelists, we estimate a triple interaction including the calendar variables, a justice’s average Democratic major party voteshare, and the average Democratic major party voteshare of the other justices on the panel (see Table 21). In both specifications, we continue to see negative and significant effects of reappointment in the baseline category. Furthermore, we continue to see no evidence of election effects, whether in the baseline category, in the interactions with a justice’s Democratic voteshare or the panel’s average Democratic voteshare, or the triple interaction.

Table 19: Pro-Defendant Appellate Justice Votes
 Justices on Both Reappointment and Reelection Calendars
 Interacting Reelection Calendar with Case From Justice's Home Judicial District

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.019*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)	-0.018*** (0.006)
Reappt Yr - 1	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)	-0.016** (0.007)
Reappt/Reelect Yr	0.009 (0.008)	0.007 (0.008)	0.006 (0.008)	0.006 (0.008)	0.007 (0.008)	0.007 (0.008)
Reappt/Reelect Yr - 1	0.007 (0.007)	0.006 (0.007)	0.006 (0.007)	0.005 (0.007)	0.006 (0.007)	0.007 (0.007)
Home District	0.000 (0.005)	0.000 (0.005)	0.000 (0.005)	0.001 (0.005)	0.001 (0.005)	0.001 (0.005)
Home District X Reappt/Reelect Yr	-0.000 (0.010)	0.001 (0.010)	0.001 (0.010)	-0.002 (0.010)	-0.001 (0.010)	-0.001 (0.010)
Home District X Reappt/Reelect Yr - 1	0.004 (0.009)	0.005 (0.009)	0.005 (0.009)	0.001 (0.008)	0.002 (0.008)	0.001 (0.008)
Pros Appeals		0.271*** (0.029)	0.276*** (0.028)	0.295*** (0.030)	0.296*** (0.030)	0.294*** (0.030)
A Felony			0.021** (0.010)	-0.009 (0.010)	-0.009 (0.010)	-0.009 (0.010)
B Felony			0.028*** (0.010)	0.022** (0.009)	0.022** (0.009)	0.023*** (0.009)
Sex Offender Registry			0.007 (0.011)	0.030*** (0.011)	0.030*** (0.011)	0.030*** (0.011)
Jury Trial				0.107*** (0.012)	0.106*** (0.011)	0.106*** (0.011)
Bench Trial				0.061*** (0.017)	0.060*** (0.017)	0.061*** (0.017)
% Dem Panel					0.022** (0.009)	0.023** (0.009)
% Reappt Yr Panel					-0.011 (0.015)	-0.012 (0.015)
% Reelect Yr Panel					-0.001 (0.024)	-0.001 (0.024)
Constant	0.110*** (0.016)	0.105*** (0.016)	0.098*** (0.017)	0.069*** (0.018)	0.061*** (0.018)	0.060*** (0.018)
N	83453	83453	83453	83453	83453	83138
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

** p<.05, *** p<.01.

Table 20: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Interacting Reappointment/Reelection Year with Justice's Average Democratic Voteshare

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.018*** (0.004)	-0.017*** (0.004)	-0.018*** (0.004)	-0.018*** (0.004)	-0.017*** (0.005)	-0.015*** (0.004)
Reappt/Reelect Yr	0.006 (0.007)	0.005 (0.008)	0.005 (0.008)	0.005 (0.008)	0.004 (0.009)	0.004 (0.008)
Dem VS X	0.012 (0.008)	0.013 (0.008)	0.015 (0.008)	0.016 (0.009)	0.013 (0.010)	0.010 (0.009)
Reappt Yr	0.001 (0.012)	0.001 (0.013)	-0.000 (0.013)	-0.002 (0.014)	0.002 (0.014)	0.003 (0.014)
Dem VS X		0.271*** (0.029)	0.276*** (0.028)	0.296*** (0.031)	0.297*** (0.030)	0.295*** (0.031)
Pros Appeals			0.021** (0.010)	-0.010 (0.010)	-0.010 (0.010)	-0.010 (0.010)
A Felony			0.029*** (0.011)	0.022** (0.009)	0.022** (0.009)	0.023** (0.009)
B Felony			0.006 (0.010)	0.030*** (0.011)	0.030** (0.011)	0.030** (0.011)
Sex Offender Registry				0.110*** (0.012)	0.109*** (0.012)	0.109*** (0.012)
Jury Trial				0.060*** (0.017)	0.060*** (0.017)	0.060*** (0.017)
Bench Trial					0.022** (0.009)	0.023** (0.009)
% Dem Panel					-0.007 (0.015)	-0.007 (0.015)
% Reappt Yr Panel					-0.003 (0.024)	-0.003 (0.024)
% Reappt/Reelect Yr Panel						
Constant	0.113*** (0.017)	0.108*** (0.017)	0.100*** (0.018)	0.068*** (0.019)	0.061*** (0.019)	0.059*** (0.019)
N	80328	80328	80328	80328	80328	80017
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

** p<.05, *** p<.01.

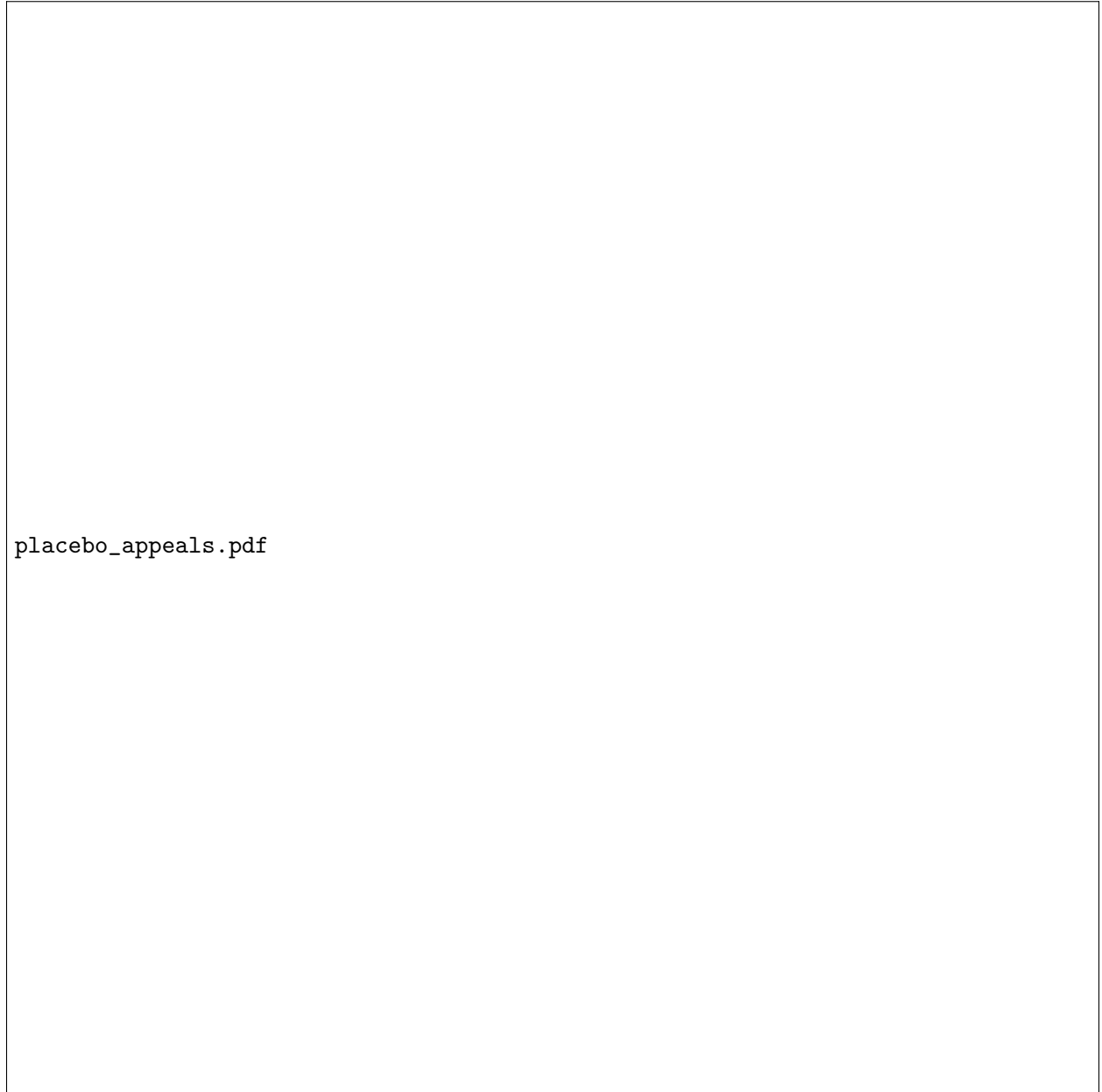
Table 21: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Interacting Justice and Panel Avg Dem Voteshares

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.047*** (0.015)	-0.042*** (0.015)	-0.042*** (0.015)	-0.042** (0.016)	-0.038** (0.015)	-0.036** (0.016)
Avg Justice Dem VS	-0.043 (0.039)	-0.045 (0.039)	-0.038 (0.038)	-0.003 (0.035)	0.000 (0.033)	0.001 (0.034)
X Reappt Yr	0.066 (0.040)	0.055 (0.038)	0.055 (0.038)	0.054 (0.039)	0.048 (0.037)	0.047 (0.037)
Avg Panel Dem VS	0.047 (0.071)	0.057 (0.068)	0.049 (0.067)	-0.001 (0.063)	-0.004 (0.060)	-0.009 (0.060)
X Avg Justice Dem VS X Reappt Yr						
Reappt/Reelect Yr	0.044** (0.018)	0.036** (0.018)	0.036 (0.018)	0.036 (0.019)	0.033 (0.019)	0.031 (0.018)
Avg Justice Dem VS	0.064 (0.040)	0.068 (0.040)	0.060 (0.039)	0.024 (0.036)	0.020 (0.035)	0.018 (0.035)
X Reappt/Reelect Yr	-0.084** (0.039)	-0.070 (0.037)	-0.070 (0.038)	-0.070 (0.039)	-0.065 (0.037)	-0.061 (0.037)
Avg Panel Dem VS	-0.056 (0.071)	-0.069 (0.069)	-0.059 (0.068)	-0.009 (0.065)	-0.003 (0.063)	0.000 (0.062)
X Avg Justice Dem VS X Reappt/Reelect Yr						
Avg Panel Dem VS	0.015 (0.010)	0.017 (0.010)	0.016 (0.010)	0.011 (0.009)	-0.001 (0.010)	-0.001 (0.010)
Pros Appeals		0.271*** (0.029)	0.276*** (0.028)	0.296*** (0.031)	0.297*** (0.030)	0.295*** (0.031)
A Felony			0.021** (0.010)	-0.010 (0.010)	-0.010 (0.010)	-0.009 (0.010)
B Felony			0.029*** (0.011)	0.022** (0.009)	0.022** (0.009)	0.023** (0.009)
Sex Offender Registry			0.005 (0.010)	0.030** (0.011)	0.029** (0.011)	0.029** (0.011)
Jury Trial				0.109*** (0.012)	0.109*** (0.012)	0.108*** (0.012)
Bench Trial				0.060*** (0.017)	0.060*** (0.017)	0.060*** (0.017)
% Dem Panel					0.023** (0.010)	0.024** (0.010)
% Reappt Yr Panel					-0.007 (0.015)	-0.008 (0.015)
% Reappt/Reelect Yr Panel					-0.002 (0.025)	-0.002 (0.025)
Constant	0.112*** (0.018)	0.107*** (0.018)	0.100*** (0.018)	0.070*** (0.019)	0.066*** (0.020)	0.064*** (0.020)
N	79913	79913	79913	79913	79913	79602
Judge FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
No Dissenting Votes	No	No	No	No	No	Yes

** p<.05, *** p<.01.

7.3.4 Placebo Retention Calendars

Figure 5: Pro-Defendant Appellate Justice Votes
Effects of Placebo Retention Calendars



Each hollow point represents the effects of placebo retention year dummies from 500 regressions, with 95% confidence intervals depicted in gray. For each placebo simulation, judge retention calendars are randomly assigned and a regression is estimated on the placebo retention calendar as well as justice, year, and month fixed effects. The dashed red lines depict the p-values associated with the true retention effects reported in Column (1) of Table 1.

7.4 Causal Mechanisms

Appendix Table 22 reports reappointment and reelection effects conditional on the identity of the appointing governor. Column 1 reports estimates for the subsample of justices initially appointed by a governor of the same party as the current governor; Column 2 for the subsample of justices initially appointed by a governor of a different party than the current governor; Column 3 for the subsample of justices initially appointed by a Democratic governor facing a current Democratic governor; Column 4 for the subsample of justices initially appointed by a Republican governor facing a current Republican governor; Column 5 for the subsample of justices initially appointed by a Republican governor facing a current Democratic governor; and Column 6 for the subsample of justices initially appointed by a Democratic governor facing a current Republican governor.

Table 22: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Subsetting by Party of Initially Appointing and Reappointing Governors

	All Judges		Reappt Same Party		Reappt Diff Party	
	Reappt Different Party No	Yes	Initial Apptng Gov Dem	Rep	Initial Apptng Gov Dem	Rep
Reappt Yr	-0.001 (0.020)	-0.018** (0.008)	0.005 (0.012)	-0.013 (0.013)	-0.030** (0.009)	-0.014 (0.009)
Reappt Yr - 1	-0.003 (0.020)	-0.015 (0.010)	-0.001 (0.019)	-0.017 (0.013)	0.028 (0.021)	-0.017 (0.010)
Reappt/Reelect Yr	0.000 (0.022)	-0.012 (0.012)	0.000 (0.000)	0.001 (0.010)	-0.014 (0.010)	-0.017 (0.013)
Reappt/Reelect Yr - 1	-0.007 (0.022)	-0.001 (0.010)	-0.004 (0.022)	0.000 (0.000)	-0.026 (0.024)	-0.002 (0.011)
Pros Appeals	0.296*** (0.030)	0.298*** (0.042)	0.325*** (0.037)	0.245*** (0.048)	0.138 (0.088)	0.308*** (0.045)
A Felony	0.000 (0.013)	-0.017 (0.012)	-0.015 (0.019)	0.017 (0.016)	0.058 (0.026)	-0.018 (0.012)
B Felony	0.032*** (0.010)	0.013 (0.010)	0.042*** (0.014)	0.027 (0.015)	0.307*** (0.074)	0.007 (0.010)
Sex Offender Registry	0.023 (0.013)	0.034** (0.015)	0.008 (0.015)	0.110*** (0.031)	0.143 (0.096)	0.035** (0.015)
Jury Trial	0.110*** (0.015)	0.102*** (0.015)	0.141*** (0.019)	0.074*** (0.017)	-0.209*** (0.047)	0.110*** (0.015)
Bench Trial	0.059*** (0.020)	0.063*** (0.022)	0.053 (0.029)	0.063** (0.027)	-0.056 (0.053)	0.074*** (0.022)
% Dem Panel	0.008 (0.011)	0.037*** (0.012)	-0.012 (0.014)	0.042** (0.016)	0.038 (0.048)	0.036*** (0.013)
% Reappt Yr Panel	-0.007 (0.018)	-0.022 (0.022)	0.001 (0.025)	-0.041 (0.026)	0.032 (0.068)	-0.028 (0.022)
% Reappt/Reelect Yr Panel	-0.015 (0.027)	0.019 (0.037)	-0.018 (0.036)	0.018 (0.042)	-0.041 (0.096)	0.023 (0.039)
Constant	0.104*** (0.016)	0.119*** (0.027)	0.122*** (0.024)	0.049 (0.028)	0.168** (0.060)	0.061*** (0.013)
N	44232	39221	27697	16535	2681	36540
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	No

** p<.05, *** p<.01.

Table 23: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Interacting Reappointment with Gubernatorial Election Year

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.017*** (0.006)	-0.016*** (0.006)	-0.016*** (0.006)	-0.016*** (0.006)	-0.016*** (0.006)	-0.016*** (0.006)
Reappt Yr - 1	-0.011 (0.006)	-0.012 (0.006)	-0.012 (0.006)	-0.012** (0.006)	-0.012** (0.006)	-0.012 (0.006)
Gub Election Yr X Reappt Yr	-0.020** (0.009)	-0.021** (0.009)	-0.021** (0.009)	-0.022** (0.009)	-0.022** (0.009)	-0.023*** (0.009)
Gub Election Yr X Reappt Yr - 1	-0.013 (0.008)	-0.014 (0.008)	-0.014 (0.008)	-0.012 (0.009)	-0.012 (0.009)	-0.013 (0.009)
Reappt/Reelect Yr	0.012 (0.008)	0.010 (0.008)	0.010 (0.008)	0.009 (0.008)	0.010 (0.008)	0.011 (0.008)
Reappt/Reelect Yr - 1	0.007 (0.006)	0.007 (0.006)	0.006 (0.006)	0.005 (0.006)	0.005 (0.006)	0.006 (0.006)
Pros Appeals		0.271*** (0.029)	0.276*** (0.028)	0.296*** (0.030)	0.297*** (0.030)	0.294*** (0.030)
A Felony			0.021** (0.010)	-0.009 (0.010)	-0.009 (0.010)	-0.009 (0.010)
B Felony			0.028*** (0.010)	0.023** (0.009)	0.022** (0.009)	0.023*** (0.009)
Sex Offender Registry			0.007 (0.011)	0.030*** (0.011)	0.030*** (0.011)	0.030*** (0.011)
Jury Trial				0.107*** (0.011)	0.106*** (0.011)	0.106*** (0.011)
Bench Trial				0.061*** (0.017)	0.060*** (0.017)	0.060*** (0.017)
% Dem Panel					0.022** (0.009)	0.023** (0.009)
% Reappt Yr Panel					-0.012 (0.015)	-0.013 (0.015)
% Reappt/Reelect Yr Panel					-0.001 (0.024)	-0.001 (0.024)
Constant	0.108*** (0.016)	0.104*** (0.016)	0.097*** (0.017)	0.068*** (0.018)	0.060*** (0.018)	0.059*** (0.018)
N	83453	83453	83453	83453	83453	83138
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

** p<.05, *** p<.01.

7.5 Effect Heterogeneity by Defendant Race

Table 24: Covariate Balance, 2003-2017
Justices on Reappointment and Reelection Calendars
Cases Unmatched and Matched to DOC Inmate Records
N = 83,453

	Unmatched	Matched
Prosecutor Appeals	0.024	0.008***
Class A Felony	0.11	0.16***
Class B Felony	0.35	0.42***
Sex Offender	0.19	0.04***
Jury Trial	0.37	0.41***
Bench Trial	0.06	0.04***
N	47,070	36,383

** p<.05, *** p<.01; differences in means tests.

Table 25: Covariate Balance, 2003-2017
Justices on Reappointment and Reelection Calendars
Cases Matched to DOC Inmate Records; N = 36,383

	Baseline	Reappt Only Yr	Reappt/ Reelection Yr
Prosecutor Appeals	0.008	0.008	0.008
Class A Felony	0.12	0.11	0.12
Class B Felony	0.31	0.35**	0.32
Class C Felony	0.22	0.21	0.21
Class D Felony	0.25	0.25	0.26
Class E Felony	0.10	0.09	0.10
Dfndt Age	36.33	36.57	36.48
Dfndt Male	0.96	0.96	0.96
Dfndt White Non-Hispanic	0.23	0.23	0.22
Dfndt Hispanic	0.16	0.14	0.17***
Dfndt Black	0.58	0.59	0.58
Jury Trial	0.41	0.39	0.41
Bench Trial	0.04	0.03	0.04
N	30,553	1,050	4,780

** p<.05, *** p<.01; differences in means tests between baseline and reappointment-only justice votes, and between reappointment-only and reappointment/reelection justice votes.

Table 26: Covariate Balance, 2003-2017
Justices on Reappointment and Reelection Calendars
Cases Matched to DOC Inmate Records
White Defendants; N = 8,291

	Baseline	Reappt Only Yr	Reappt/ Reelection Yr
Prosecutor Appeals	0.008	0.000	0.008
Class A1 Felony	0.07	0.05	0.07
Class A2 Felony	0.02	0.04**	0.01**
Class B Felony	0.23	0.29	0.25
Class C Felony	0.20	0.15**	0.19
Class D Felony	0.32	0.35	0.33
Class E Felony	0.16	0.12	0.15
Dfndt Age	38.92	38.85	39.41
Dfndt Male	0.92	0.92	0.92
Jury Trial	0.20	0.17	0.23
Bench Trial	0.02	0.02	0.02
N	7,014	242	1,035

** p<.05, *** p<.01; differences in means tests between baseline and reappointment-only justice votes, and between reappointment-only and reappointment/reelection justice votes.

Table 27: Covariate Balance, 2003-2017
Justices on Reappointment and Reelection Calendars
Cases Matched to DOC Inmate Records
Hispanic Defendants; N = 5,789

	Baseline	Reappt Only Yr	Reappt/ Reelection Yr
Prosecutor Appeals	0.009	0.007	0.009
Class A1 Felony	0.11	0.09	0.12
Class A2 Felony	0.04	0.07	0.03**
Class B Felony	0.34	0.35	0.35
Class C Felony	0.21	0.21	0.19
Class D Felony	0.22	0.20	0.21
Class E Felony	0.08	0.08	0.10
Dfndt Age	35.87	37.58	35.93
Dfndt Male	0.97	0.96	0.97
Jury Trial	0.21	0.24	0.19
Bench Trial	0.03	0.02	0.03
N	4,824	144	821

** p<.05, *** p<.01; differences in means tests between baseline and reappointment-only justice votes, and between reappointment-only and reappointment/reelection justice votes.

Table 28: Covariate Balance, 2003-2017
Justices on Reappointment and Reelection Calendars
Cases Matched to DOC Inmate Records
Black Defendants; N = 21,032

	Baseline	Reappt Only Yr	Reappt/ Reelection Yr
Prosecutor Appeals	0.008	0.010	0.007
Class A1 Felony	0.12	0.08**	0.11
Class A2 Felony	0.02	0.02	0.02
Class B Felony	0.33	0.37**	0.34
Class C Felony	0.23	0.22	0.25
Class D Felony	0.22	0.20	0.21
Class E Felony	0.07	0.08	0.07
Dfndt Age	35.44	35.55	35.93
Dfndt Male	0.97	0.97	0.97
Jury Trial	0.29	0.30	0.26
Bench Trial	0.02	0.02	0.02
N	17,680	618	2,734

** p<.05, *** p<.01; differences in means tests between baseline and reappointment-only justice votes, and between reappointment-only and reappointment/reelection justice votes.

Table 29: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Subsample of Cases Matched to DOC Data

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.027** (0.013)	-0.026* (0.014)	-0.026* (0.014)	-0.028** (0.013)	-0.028** (0.013)	-0.026** (0.013)
Reappt Yr - 1	-0.022* (0.013)	-0.021 (0.013)	-0.019 (0.013)	-0.020 (0.013)	-0.020 (0.013)	-0.020 (0.013)
Reappt/Reelect Yr	0.014 (0.014)	0.014 (0.014)	0.013 (0.015)	0.014 (0.014)	0.014 (0.014)	0.013 (0.014)
Reappt/Reelect Yr - 1	0.014 (0.012)	0.013 (0.012)	0.012 (0.012)	0.011 (0.012)	0.011 (0.012)	0.012 (0.012)
Pros Appeals		0.290*** (0.055)	0.291*** (0.056)	0.310*** (0.056)	0.312*** (0.055)	0.308*** (0.056)
Dfndt Age			0.000 (0.000)	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)
Dfndt Male			0.016 (0.013)	0.013 (0.013)	0.013 (0.013)	0.014 (0.013)
Dfndt Hispanic			-0.002 (0.009)	-0.004 (0.009)	-0.004 (0.009)	-0.004 (0.009)
Dfndt Black			0.001 (0.007)	-0.003 (0.007)	-0.003 (0.007)	-0.004 (0.007)
A2 Felony			0.042* (0.023)	0.060** (0.024)	0.060** (0.024)	0.059** (0.024)
B Felony			0.010 (0.010)	0.020* (0.010)	0.020* (0.010)	0.020* (0.010)
C Felony			0.010 (0.011)	0.022* (0.011)	0.021* (0.011)	0.021* (0.011)
D Felony			0.004 (0.012)	0.020* (0.012)	0.020* (0.012)	0.020* (0.012)
E Felony			-0.001 (0.013)	0.018 (0.013)	0.017 (0.013)	0.016 (0.013)
Jury Trial				0.092*** (0.009)	0.091*** (0.009)	0.091*** (0.009)
Bench Trial				0.058*** (0.020)	0.058*** (0.020)	0.058*** (0.020)
% Dem Panel					0.018 (0.012)	0.019* (0.011)
% Reappt Yr Panel					-0.011 (0.024)	-0.011 (0.024)
% Reappt/Reelect Yr Panel					0.021 (0.037)	0.020 (0.037)
Constant	0.085*** (0.020)	0.085*** (0.020)	0.050* (0.028)	0.019 (0.028)	0.012 (0.028)	0.010 (0.029)
N	36382	36382	36030	36030	36030	35914
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

Table 30: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Non-Hispanic White Defendants

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.014 (0.031)	-0.011 (0.030)	-0.012 (0.029)	-0.013 (0.028)	-0.013 (0.028)	-0.010 (0.027)
Reappt Yr - 1	-0.035** (0.014)	-0.035** (0.013)	-0.033** (0.014)	-0.036*** (0.013)	-0.036*** (0.013)	-0.035*** (0.013)
Reappt/Reelect Yr	-0.004 (0.035)	-0.006 (0.034)	-0.005 (0.034)	-0.006 (0.033)	-0.006 (0.033)	-0.008 (0.033)
Reappt/Reelect Yr - 1	0.014 (0.018)	0.014 (0.017)	0.013 (0.016)	0.013 (0.017)	0.013 (0.017)	0.013 (0.017)
Pros Appeals		0.254** (0.103)	0.257** (0.103)	0.277*** (0.102)	0.278*** (0.101)	0.279*** (0.102)
Dfndt Age			0.001 (0.001)	0.000 (0.001)	0.000 (0.001)	0.000 (0.001)
Dfndt Male			0.013 (0.022)	0.008 (0.022)	0.008 (0.022)	0.009 (0.022)
A2 Felony			0.074 (0.063)	0.091 (0.063)	0.091 (0.063)	0.079 (0.064)
B Felony			0.033 (0.029)	0.047 (0.030)	0.048 (0.030)	0.046 (0.030)
C Felony			0.001 (0.030)	0.018 (0.031)	0.019 (0.031)	0.017 (0.031)
D Felony			-0.004 (0.028)	0.018 (0.030)	0.019 (0.030)	0.016 (0.030)
E Felony			0.011 (0.030)	0.039 (0.032)	0.039 (0.032)	0.036 (0.032)
Jury Trial				0.096*** (0.018)	0.096*** (0.018)	0.095*** (0.018)
Bench Trial				0.045 (0.038)	0.045 (0.038)	0.047 (0.039)
% Dem Panel					0.019 (0.028)	0.021 (0.029)
% Reappt Yr Panel					0.022 (0.049)	0.025 (0.049)
% Reappt/Reelect Yr Panel					-0.017 (0.090)	-0.020 (0.089)
Constant	0.082* (0.049)	0.083* (0.049)	0.036 (0.059)	0.017 (0.059)	0.010 (0.059)	0.010 (0.059)
N	8291	8291	8279	8279	8279	8242
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01. While reappointment effects for non-Hispanic whites appear to be dissipating over time, quarter-level analyses suggest that these results may be estimated imprecisely. At the quarter level, reappointment effects vary in direction across the reappointment year and, to a lesser extent, the year preceding reappointment. One explanation for the coefficient instability may be lower statistical power for this subgroup.

Table 31: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Hispanic Defendants

	M1	M2	M3	M4	M5	M6
Reappt Yr	0.011 (0.031)	0.010 (0.031)	0.012 (0.030)	0.009 (0.030)	0.009 (0.030)	0.009 (0.030)
Reappt Yr - 1	-0.028 (0.041)	-0.029 (0.039)	-0.029 (0.039)	-0.029 (0.040)	-0.030 (0.041)	-0.028 (0.041)
Reappt/Reelect Yr	-0.009 (0.035)	-0.007 (0.035)	-0.009 (0.035)	-0.010 (0.034)	-0.008 (0.034)	-0.010 (0.034)
Reappt/Reelect Yr - 1	0.056 (0.041)	0.057 (0.039)	0.056 (0.039)	0.053 (0.039)	0.054 (0.040)	0.055 (0.040)
Pros Appeals		0.373*** (0.115)	0.376*** (0.115)	0.388*** (0.113)	0.392*** (0.113)	0.392*** (0.113)
Dfndt Age			-0.000 (0.001)	-0.000 (0.001)	-0.000 (0.001)	-0.000 (0.001)
Dfndt Male			0.052 (0.035)	0.056* (0.033)	0.057* (0.033)	0.056* (0.033)
A2 Felony			-0.049 (0.033)	-0.031 (0.032)	-0.031 (0.032)	-0.032 (0.032)
B Felony			-0.010 (0.023)	0.002 (0.021)	0.003 (0.021)	0.001 (0.022)
C Felony			-0.016 (0.023)	-0.004 (0.022)	-0.004 (0.022)	-0.005 (0.022)
D Felony			-0.012 (0.024)	-0.001 (0.023)	-0.001 (0.023)	-0.001 (0.023)
E Felony			-0.020 (0.029)	-0.006 (0.028)	-0.003 (0.028)	-0.003 (0.028)
Jury Trial				0.098*** (0.019)	0.097*** (0.019)	0.097*** (0.018)
Bench Trial				0.093* (0.047)	0.092* (0.047)	0.094* (0.047)
% Dem Panel					0.033 (0.027)	0.034 (0.027)
% Reappt Yr Panel					-0.051 (0.045)	-0.054 (0.045)
% Reappt/Reelect Yr Panel					0.016 (0.077)	0.018 (0.077)
Constant	0.105** (0.044)	0.111** (0.044)	0.076 (0.065)	0.020 (0.062)	0.010 (0.062)	0.010 (0.062)
N	5789	5789	5789	5789	5789	5777
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

Table 32: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Black Defendants

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.035** (0.017)	-0.034* (0.018)	-0.033* (0.018)	-0.034* (0.017)	-0.034* (0.017)	-0.033* (0.017)
Reappt Yr - 1	-0.010 (0.021)	-0.009 (0.021)	-0.009 (0.022)	-0.010 (0.021)	-0.010 (0.021)	-0.010 (0.021)
Reappt/Reelect Yr	0.021 (0.017)	0.020 (0.018)	0.019 (0.018)	0.020 (0.018)	0.020 (0.017)	0.020 (0.017)
Reappt/Reelect Yr - 1	0.003 (0.022)	0.001 (0.021)	0.001 (0.021)	-0.000 (0.021)	-0.000 (0.021)	0.002 (0.022)
Pros Appeals		0.290*** (0.069)	0.290*** (0.069)	0.312*** (0.069)	0.313*** (0.069)	0.307*** (0.069)
Dfndt Age			0.000 (0.000)	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)
Dfndt Male			0.007 (0.019)	0.004 (0.019)	0.004 (0.019)	0.005 (0.019)
A2 Felony			0.078** (0.035)	0.096*** (0.036)	0.096*** (0.036)	0.097*** (0.036)
B Felony			0.008 (0.012)	0.016 (0.012)	0.015 (0.012)	0.017 (0.012)
C Felony			0.021 (0.014)	0.030** (0.014)	0.030** (0.013)	0.030** (0.013)
D Felony			0.012 (0.014)	0.026* (0.014)	0.026* (0.014)	0.027* (0.014)
E Felony			-0.000 (0.017)	0.014 (0.017)	0.014 (0.017)	0.012 (0.016)
Jury Trial				0.090*** (0.015)	0.090*** (0.015)	0.090*** (0.015)
Bench Trial				0.055* (0.028)	0.055* (0.028)	0.054* (0.028)
% Dem Panel					0.011 (0.015)	0.012 (0.015)
% Reappt Yr Panel					-0.005 (0.032)	-0.006 (0.032)
% Reappt/Reelect Yr Panel					0.021 (0.050)	0.021 (0.050)
Constant	0.083*** (0.029)	0.082*** (0.029)	0.052 (0.037)	0.015 (0.038)	0.011 (0.038)	0.008 (0.039)
N	21031	21031	21016	21016	21016	20949
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

Table 33: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Defendants Matched to DOC Data
Effect of Reappointment Year, Subsetted by Felony Class

	M1	M2	M3	M4	M5	M6
A Felonies (N = 4,440)	-0.033 (0.022)	-0.034 (0.022)	-0.034 (0.022)	-0.030 (0.024)	-0.030 (0.024)	-0.025 (0.024)
B Felonies (N = 11,388)	-0.041*** (0.012)	-0.042*** (0.012)	-0.042*** (0.012)	-0.040*** (0.011)	-0.041*** (0.011)	-0.042*** (0.011)
C Felonies (N = 7,859)	0.013 (0.026)	0.018 (0.027)	0.018 (0.027)	0.007 (0.026)	0.006 (0.026)	0.010 (0.025)
D Felonies (N = 9,156)	-0.028 (0.021)	-0.026 (0.021)	-0.027 (0.021)	-0.029 (0.020)	-0.029 (0.021)	-0.027 (0.020)
E Felonies (N = 3,510)	-0.076*** (0.027)	-0.076*** (0.028)	-0.075*** (0.028)	-0.079*** (0.029)	-0.077*** (0.028)	-0.072** (0.028)
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Prosecutor Appeals	No	Yes	Yes	Yes	Yes	Yes
Age/Sex	No	No	Yes	Yes	Yes	Yes
Jury/Bench	No	No	No	Yes	Yes	Yes
Panel Covs	No	No	No	No	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01.

Table 34: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Interacting Reappointment Calendars With District Attorney Election Year

	M1	M2	M3	M4	M5	M6
Full Sample Matched to DOC Records						
Reappt Yr	-0.028** (0.014)	-0.028 (0.014)	-0.027 (0.014)	-0.029** (0.013)	-0.029** (0.013)	-0.027** (0.013)
Reappt/Reelect Yr	0.015 (0.014)	0.014 (0.014)	0.014 (0.014)	0.015 (0.014)	0.015 (0.013)	0.014 (0.013)
Pros Election Yr X Reappt Yr	0.002 (0.012)	0.004 (0.012)	0.003 (0.012)	0.001 (0.012)	0.001 (0.012)	0.003 (0.011)
Pros Election Yr	-0.001 (0.007)	-0.002 (0.007)	-0.002 (0.007)	-0.003 (0.007)	-0.003 (0.007)	-0.004 (0.007)
Non-Hispanic White Defendants						
Reappt Yr	-0.020 (0.031)	-0.018 (0.030)	-0.018 (0.030)	-0.020 (0.028)	-0.019 (0.028)	-0.016 (0.028)
Reappt/Reelect Yr	-0.004 (0.035)	-0.007 (0.034)	-0.006 (0.034)	-0.006 (0.033)	-0.006 (0.033)	-0.008 (0.033)
Pros Election Yr X Reappt Yr	0.024 (0.029)	0.024 (0.029)	0.025 (0.029)	0.025 (0.027)	0.025 (0.027)	0.024 (0.026)
Pros Election Yr	0.021 (0.018)	0.021 (0.018)	0.020 (0.018)	0.018 (0.018)	0.018 (0.018)	0.018 (0.019)
Hispanic Defendants						
Reappt Yr	0.013 (0.031)	0.013 (0.031)	0.015 (0.030)	0.012 (0.029)	0.012 (0.030)	0.011 (0.030)
Reappt/Reelect Yr	-0.008 (0.035)	-0.006 (0.035)	-0.008 (0.034)	-0.009 (0.033)	-0.007 (0.033)	-0.010 (0.033)
Pros Election Yr X Reappt Yr	-0.017 (0.027)	-0.015 (0.027)	-0.016 (0.027)	-0.020 (0.027)	-0.020 (0.027)	-0.014 (0.027)
Pros Election Yr	0.000 (0.016)	0.001 (0.016)	0.001 (0.016)	-0.001 (0.016)	-0.000 (0.016)	-0.000 (0.016)
Black Defendants						
Reappt Yr	-0.037** (0.018)	-0.036* (0.018)	-0.035* (0.018)	-0.036** (0.018)	-0.036* (0.018)	-0.035** (0.017)
Reappt/Reelect Yr	0.022 (0.017)	0.021 (0.018)	0.020 (0.018)	0.021 (0.017)	0.021 (0.017)	0.021 (0.017)
Pros Election Yr X Reappt Yr	0.004 (0.016)	0.005 (0.016)	0.005 (0.016)	0.003 (0.016)	0.002 (0.016)	0.005 (0.015)
Pros Election Yr	-0.011 (0.009)	-0.012 (0.009)	-0.011 (0.009)	-0.013 (0.009)	-0.013 (0.009)	-0.014 (0.009)
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Prosecutor Appeals	No	Yes	Yes	Yes	Yes	Yes
Age/Sex/Felony Class	No	No	Yes	Yes	Yes	Yes
Jury/Bench	No	No	No	Yes	Yes	Yes
Panel Covs	No	No	No	No	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

** p<.05, *** p<.01.

Table 35: Pre- and Post-Matching Covariate Balance
Justices on Reappointment and Reelection Calendars
Cases Matched to DOC Inmate Records
Coarsened Exact Matching on Pre-Ruling Case/Defendant Covariates

	Unmatched		Matched	
	Non-Hispanic White Dfndts	Black Dfndts	Non-Hispanic White Dfndts	Black Dfndts
Class A Felony	0.08	0.13***	0.08	0.08
Class B Felony	0.24	0.34***	0.24	0.24
Class C Felony	0.20	0.23***	0.20	0.20
Class D Felony	0.32	0.23***	0.32	0.32
Class E Felony	0.16	0.07***	0.16	0.16
Dfndt Age	38.97	35.45***	38.83	38.80
Dfndt Male	0.92	0.97***	0.93	0.93
N	8,279	21,017	8,215	20,995

** p<.05, *** p<.01. OLS regressions using CEM weights for matched samples.

Table 36: Pre- and Post-Matching Covariate Balance
Justices on Reappointment and Reelection Calendars
Cases Matched to DOC Inmate Records
Coarsened Exact Matching on Pre-Ruling Case/Defendant Covariates

	Unmatched		Matched	
	Hispanic Dfndts	Black Dfndts	Hispanic Defendants	Black Dfndts
Class A Felony	0.15	0.13***	0.15	0.15
Class B Felony	0.35	0.34	0.35	0.35
Class C Felony	0.21	0.23***	0.21	0.21
Class D Felony	0.21	0.23***	0.22	0.22
Class E Felony	0.08	0.07**	0.08	0.08
Dfndt Age	35.92	35.45***	35.77	35.78
Dfndt Male	0.974	0.967***	0.975	0.975
N	5,789	21,017	5,753	20,877

** p<.05, *** p<.01. OLS regressions using CEM weights for matched samples.

Table 37: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Black Defendants Matched to Hispanic Defendants

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.034* (0.020)	-0.033* (0.020)	-0.033* (0.019)	-0.034* (0.019)	-0.034* (0.019)	-0.033* (0.018)
Reappt Yr - 1	-0.010 (0.021)	-0.008 (0.021)	-0.008 (0.021)	-0.009 (0.020)	-0.009 (0.020)	-0.010 (0.021)
Reappt/Reelect Yr	0.023 (0.020)	0.023 (0.020)	0.022 (0.020)	0.023 (0.019)	0.023 (0.019)	0.023 (0.019)
Reappt/Reelect Yr - 1	0.006 (0.022)	0.003 (0.021)	0.002 (0.021)	0.001 (0.020)	0.001 (0.020)	0.003 (0.021)
Pros Appeals		0.320*** (0.073)	0.321*** (0.073)	0.344*** (0.074)	0.344*** (0.074)	0.339*** (0.074)
Dfndt Age			0.000 (0.000)	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)
Dfndt Male			-0.004 (0.026)	-0.006 (0.026)	-0.006 (0.026)	-0.007 (0.026)
A2 Felony			0.090** (0.038)	0.109*** (0.039)	0.109*** (0.039)	0.111*** (0.039)
B Felony			0.009 (0.012)	0.017 (0.012)	0.017 (0.012)	0.018 (0.012)
C Felony			0.021 (0.014)	0.030** (0.014)	0.030** (0.014)	0.030** (0.014)
D Felony			0.016 (0.014)	0.029** (0.014)	0.029** (0.014)	0.031** (0.014)
E Felony			-0.000 (0.017)	0.014 (0.017)	0.014 (0.017)	0.012 (0.016)
Jury Trial				0.090*** (0.012)	0.090*** (0.012)	0.090*** (0.011)
Bench Trial				0.049* (0.028)	0.048* (0.028)	0.048* (0.028)
% Dem Panel					0.004 (0.015)	0.006 (0.015)
% Reappt Yr Panel					0.001 (0.034)	-0.001 (0.034)
% Reappt/Reelect Yr Panel					0.002 (0.050)	0.004 (0.051)
Constant	0.079** (0.031)	0.078** (0.031)	0.051 (0.044)	0.013 (0.044)	0.012 (0.045)	0.010 (0.045)
N	20876	20876	20876	20876	20876	20809
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01. All models implemented using weights derived from Coarsened Exact Matching on pre-ruling case/defendant covariates.

Table 38: Pro-Defendant Appellate Justice Votes
Justices on Both Reappointment and Reelection Calendars
Black Defendants Matched to Non-Hispanic White Defendants

	M1	M2	M3	M4	M5	M6
Reappt Yr	-0.048** (0.019)	-0.047** (0.019)	-0.046** (0.019)	-0.049*** (0.018)	-0.049*** (0.018)	-0.048*** (0.018)
Reappt Yr - 1	-0.023 (0.021)	-0.023 (0.021)	-0.023 (0.021)	-0.025 (0.020)	-0.025 (0.020)	-0.027 (0.021)
Reappt/Reelect Yr	0.024 (0.019)	0.023 (0.020)	0.022 (0.019)	0.025 (0.019)	0.025 (0.018)	0.025 (0.018)
Reappt/Reelect Yr - 1	0.018 (0.022)	0.015 (0.021)	0.015 (0.022)	0.016 (0.021)	0.016 (0.021)	0.018 (0.022)
Pros Appeals		0.286*** (0.077)	0.288*** (0.077)	0.308*** (0.079)	0.310*** (0.078)	0.308*** (0.078)
Dfndt Age			-0.000 (0.000)	-0.000 (0.000)	0.000 (0.000)	0.000 (0.000)
Dfndt Male			0.003 (0.026)	-0.001 (0.025)	-0.001 (0.025)	-0.001 (0.025)
A2 Felony			0.126** (0.051)	0.142*** (0.052)	0.141*** (0.052)	0.143*** (0.052)
B Felony			0.003 (0.013)	0.008 (0.013)	0.008 (0.013)	0.009 (0.013)
C Felony			0.031* (0.016)	0.037** (0.016)	0.037** (0.016)	0.036** (0.016)
D Felony			0.012 (0.015)	0.024 (0.015)	0.024 (0.015)	0.025* (0.015)
E Felony			0.001 (0.017)	0.014 (0.017)	0.014 (0.017)	0.013 (0.017)
Jury Trial				0.097*** (0.013)	0.097*** (0.013)	0.097*** (0.013)
Bench Trial				0.032 (0.029)	0.032 (0.029)	0.032 (0.029)
% Dem Panel					0.008 (0.017)	0.008 (0.017)
% Reappt Yr Panel					-0.017 (0.035)	-0.018 (0.036)
% Reappt/Reelect Yr Panel					0.020 (0.060)	0.021 (0.060)
Constant	0.113*** (0.042)	0.112*** (0.042)	0.098* (0.054)	0.066 (0.055)	0.064 (0.056)	0.062 (0.056)
N	20994	20994	20994	20994	20994	20927
Justice FE	Yes	Yes	Yes	Yes	Yes	Yes
Year, Month FE	Yes	Yes	Yes	Yes	Yes	Yes
SE Clustered Justice/Case	Yes	Yes	Yes	Yes	Yes	Yes
Excludes Dissenting Justices	No	No	No	No	No	Yes

* p<.10, ** p<.05, *** p<.01. All models implemented using weights derived from Coarsened Exact Matching on pre-ruling case/defendant covariates.