

# The Supreme Court as an Electoral Issue: Evidence from Three Studies

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## Abstract

Judicial nominations, particularly those to the Supreme Court, have been a salient topic in recent presidential and senate elections. However, there has been little research to determine whether judicial nominations motivate political behavior. Across three studies we demonstrate the important role judicial nominations play in influencing political behavior. In Study One, we analyze the extent to which voters perceive judicial nominations as an important electoral issue. We find that Republicans —and especially strong Republicans —are more likely to perceive judicial nominations as important. In Study Two, we analyze how congruence with an incumbent Senator’s judicial confirmation votes influences voters’ decision to vote for the incumbent. We find that congruence with a Senator’s judicial confirmation votes is a strong predictor of vote choice. Finally, in Study Three, we analyze data from an original conjoint experiment aimed at simulating a Senate primary election where voters must select among co-partisans. We find that Republican subjects are more likely to select a primary candidate who prioritizes confirming conservative Supreme Court nominees. Among Democratic subjects, however, we find that Democratic candidates who prioritize the Court might actually suffer negative electoral consequences. Overall, our results demonstrate the importance of judicial nominations as an electoral issue.

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Although the American people do not cast votes for Supreme Court justices, the issue of filling court vacancies has played a prominent role in recent elections. After the February 2016 death of Justice Antonin Scalia, Senate Republicans ignited partisan fighting by announcing that they would not hold a confirmation hearing for anyone that then President Barack Obama nominated to fill the position, arguing that “the nomination should be made by the president that the people elect in the election that’s underway.”<sup>1</sup> The matter of court appointments resurfaced again in a 2017 special election to fill one of Alabama’s Senate seats. Even after Republican nominee Roy Moore was accused of child molestation, many of his fellow partisans – including Alabama Governor Kay Ivey – continued to support him on the grounds that “we need to have a Republican in the United States Senate to vote on things like the Supreme Court justices, other appointments the Senate has to confirm.”<sup>2</sup> More recently, the confirmation of President Donald Trump’s controversial nominee Brett Kavanaugh increased the salience of the judicial appointments just prior to the 2018 midterm elections. The legacy of these partisan battles even led to calls for the 2020 Democratic Presidential hopefuls to release short lists of potential Supreme Court nominees in advance of the primaries.<sup>3</sup>

Overall, all of these recent examples highlight how discussions of the Supreme Court have become central to U.S. electoral politics. But while the existing literature informs of us about the types of nominees that the public prefers (Badas and Stauffer 2018; Krewson and Owens N.d.; Sen 2017) and suggests that Senators behave as though they are responsive to those preferences (Kastellec, Lax and Phillips 2010; Kastellec et al. 2015), more direct examinations of whether voters actually consider the Supreme Court and the potential for future vacancies when filling out their ballots are lacking. Do voters think about how their senators will ultimately shape the Court? Or do they simply vote based on the candidates before them? Across three studies we demonstrate that the Supreme Court and judicial appointments are an important electoral issue. First, we test media narratives

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<sup>1</sup>Senate Majority Leader Mitch McConnell to reporters, February 23, 2016. [Source: NPR](#)

<sup>2</sup>Alabama Governor Kay Ivey to reporters, November 17, 2017. [Source: AL.com](#).

<sup>3</sup>[Source: Washington Post](#).

about the importance of judicial appointments in the 2016 presidential elections. These media narratives framed judicial appointments as an important issue, and in particular, an issue especially important for Republicans. In our analysis, we confirm that voters did view judicial appointments as an important issue, and that strong Republicans were the most likely to do so. Second, we test whether voters hold incumbent Senators accountable for their votes on judicial nominees. Using data from the 2018 Senate midterm elections, we find that voters who agree with their incumbent Senator’s votes on the confirmations of Brett Kavanaugh and Neil Gorsuch were more likely to vote in support of the incumbent candidate. This effect is present for *both* Democrats and Republicans, however Republican voters are most responsive when their Senator is congruent with them on both votes, while Democrats seem to be more willing to vote for an incumbent when there is only one congruent vote. These results suggest judicial appointments are more salient to Republican partisans. Third, we use a conjoint experiment to simulate Senate primary elections where voters must select among co-partisans. We find that Republican candidates who prioritize the Supreme Court—and especially when priming the idea of confirming ideologically conservative nominees—are preferred to Republican candidates who prioritize other issues. For Democratic candidates, prioritizing the Supreme Court has either no effect or even potentially a negative effect relative to other issues. Thus, our results again demonstrate that judicial appointments are especially important for Republican partisans.

Overall, our findings suggest that when voters think about Senate candidates, voters do consider the way that they may shape the court. They also contribute evidence to arguments that public attitudes toward the judiciary may not be as distinct as is often assumed (Ansolabehere and White 2018; Rogowski and Stone 2019) and suggest that in the minds of U.S. voters, the branches of government are not entirely separate.

## **The Supreme Court as an Electoral Issue**

We hypothesize that voters consider how candidates have or will vote on Supreme Court nominees. This expectation is consistent with studies showing that voters can and

do punish those senators who are out of step with the preferences of their constituents (Ansolabehere and Jones 2010; Kassow and Finocchiaro 2011; Griffin, Newman and Nickerson 2019). Though a voter’s ability to correctly connect candidate behavior to the voting decision should vary with both the salience and the partisan nature of the issue (Dancey and Sheagley 2013, 2016; Simas 2018), we contend that Supreme Court confirmation votes should fall into the category of those that are factored into the voting calculus.

For one, the public appears to possess sufficient awareness Supreme Court confirmations. Gibson and Caldeira (2009) find that large majorities of the public know the selection processes of the Supreme Court. Further, recent polls suggest relatively high levels of attention and information. For example, 2016 polls found that seven-in-ten of those surveyed had heard about Justice Antonin Scalia’s death and the vacancy on the court<sup>4</sup> and only 15% of respondents had no opinion of Merrick Garland, the individual nominated to fill Scalia’s seat.<sup>5</sup> Similarly, only 24% of respondents indicated that they didn’t know whether Neil Gorsuch should be confirmed in 2017.<sup>6</sup> And two polls taken in October 2018 – only one month prior to the election – found that only 9% of respondents didn’t know whether Brett Kavanaugh should be confirmed<sup>7</sup> and that only 5% of registered voters had heard nothing at all about his confirmation.<sup>8</sup> Overall, these polls suggest that a sizeable number of potential voters do possess the capability of connecting concerns about the court to senate votes.

Second, opinions of the court and nominees appear to be sufficiently partisan. Indeed, a growing literature demonstrates that the public’s opinions of the court and preferences for nominees are shaped by partisan, ideological, and policy agreement (Badas 2016, 2019*a,b*; Bartels and Johnston 2012; Christenson and Glick 2015, 2018; Gimpel and Wolpert 1996; Sen 2017). Moreover, partisan fighting and elite rhetoric further polarizes these types of opinions (Rogowski and Stone 2019). These findings collectively suggest, then, that “the

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<sup>4</sup>Source: Pew Research

<sup>5</sup>Source: CNN ORC International Poll

<sup>6</sup>Source: Pew Research

<sup>7</sup>Source: Quinnipiac Poll

<sup>8</sup>Source: Politico

Court, although in the past viewed as more non-partisan institution, may be instead, and perhaps increasingly, viewed as a fundamentally political branch, more in line with other political bodies” (Sen 2017, p.390). Thus, we expect that congruence with a senator’s position on a Supreme Court confirmation will factor into the voting calculus in much the same way that other important partisan issues do (e.g. healthcare; Nyhan et al. 2012).

Of course, we do not anticipate that all individuals will consider the courts to the same degree. Consistent with Sen (2017), we predict that the influence of court considerations will be greatest among the more politically knowledgeable. Although confirmation votes are highly salient and the type of partisan thinking that should enable the connection between Senate voting and court preferences does not necessarily require sophisticated calculation, we side with psychological literature finding that partisanship should matter more to those possessing the greatest amount of political knowledge (Zaller 1992).

Moreover, we expect that there may also be partisan asymmetries. Republicans should be more likely to be concerned with partisan and ideological consistency at all levels. This expectation stems from the wealth of evidence presented by Grossmann and Hopkins (2016) and from additional research finding greater partisan loyalty and rhetoric among Republicans (Barber and Pope 2019; Russell 2018). More directly, Sen (2017) finds some evidence of partisan differences, as Republicans appear more willing to penalize a judicial nominee for leaning toward the opposite party. Further, there is evidence that Republican elites focus more attention on the Supreme Court than Democratic elites which may signal the Court’s importance to Republicans in the mass public (Zaller 1992). For example, Mark and Zilis (2018) find that Republicans are more likely to introduce Court curbing legislation than Democrats. Moreover, many studies have demonstrated how conservative activists and elites have shaped the judiciary through groups such as the Federalist Society (Scherer and Miller 2009; Hollis-Brusky 2015). Thus, there is greater institutionalization of the judiciary as a political issue within the Republican party than the Democratic party. As such, we expect to find stronger evidence of the influence of court considerations among Republicans than Democrats.

We test these expectations in the sections that follow. We first present public opinion data which support the proposition that judicial appointments are important to voters. We then present evidence that opinions on the confirmations of Justices Gorsuch and Kavanaugh were significantly associated with voting for Senate incumbents in 2018. Finally, we present an original experiment that isolates the potential role of Supreme Court considerations when evaluating potential Senate candidates.

## **Three Studies on the Supreme Court as an Electoral Issue**

### **Study 1: Public Opinion Prior to the 2016 Election**

We begin by establishing the extent to which judicial appointments are important to voters. To do this, we use survey data from the NORC Center for Public Affairs Research (NORC). The survey was conducted between September 15, 2016 and September 18, 2016 via telephone and as a web-based survey and had a sample of 1022.<sup>9</sup> The survey asked about the importance of 18 different campaign issues (e.g. healthcare, crime, unemployment), including Supreme Court appointments. Each respondent was shown a random subset of 9 of these issues and asked to rate their importance on a five-point scale ranging from “not important at all” to “extremely important.” After dropping respondents not asked about the Supreme Court, we are left with a sample of 513 individuals. Of those asked about Supreme Court appointments, 61.4% rated the issue as either very or extremely important and the modal response was very important. This appears to be fairly consistent among both Democratic and Republican respondents, as the percentages of the two groups rating Supreme Court appointments as either very or extremely important are 63.6 and 67.8, respectively.

While these percentages may seem high, these evaluations only result in Supreme Court

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<sup>9</sup>Data and documentation publicly available [here](#).

appointments ranking 13th of the 18 issues included. Given this, these raw importance scores should be considered in relation to all the issues rated. For example, if a respondent rates all 8 non-Supreme Court appointment items as “extremely important” and also rates the Supreme Court appointment item as “extremely important,” this is less meaningful than a respondent who, on average, views the 8 non-Supreme Court appointment items as only “somewhat important” but views the Supreme Court appointment item as “extremely important.” Based on this reasoning, we create a relative importance of Supreme Court appointments measure. To create this measure we take the mean<sup>10</sup> importance score across the 8 non-Supreme Court issues and subtract that from the importance rating the respondent gave to the Supreme Court appointments question. As such, positive values indicate that the respondent considered Supreme Court appointments to be more important than the average issue, while negative values indicate that the respondent considered Supreme Court appointments to be less important than the average issue. The distribution of our relative importance of the Court measure is presented in Figure 1 . The mean is -0.15, the standard deviation is 1, and the median is 0.

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<sup>10</sup>Results are substantively similar if we use participant’s median response across the 8 non-Supreme Court issues.

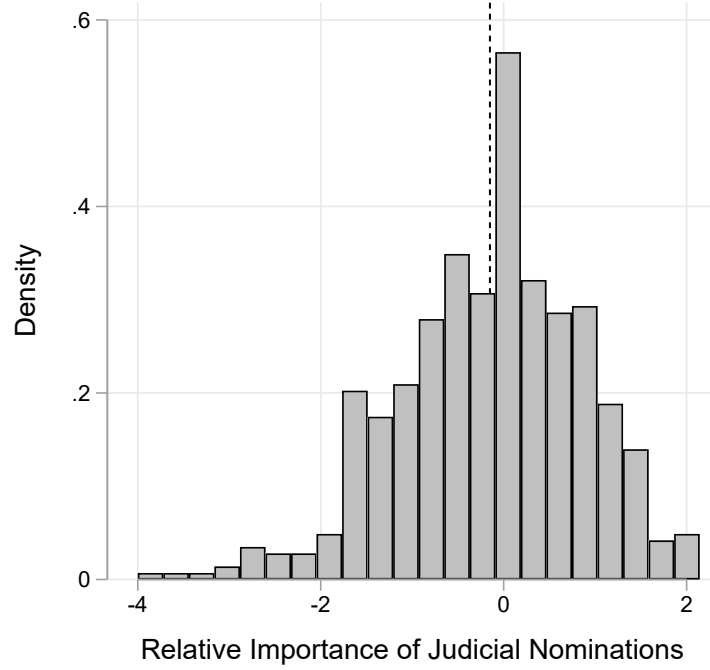


Figure 1: Distribution of Relative Important of Judicial Nominees. Dashed vertical line represents mean value.

To explain the variation in the relative importance given to judicial appointments, we estimate an ordinary least square (OLS) linear regression model. The regression predicts importance of judicial appointments as a function of an individual’s partisanship, demographic traits such as age, gender and race, and the mode by which the survey was administered.<sup>11</sup> To capture respondent partisanship, we create six dichotomous indicators from the 7-point scale that runs from strong Democrat to strong Republican. In our model, pure independents are the omitted reference category. The results to the OLS regression are presented in Column 1 of Table 1.

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<sup>11</sup>See the Appendix for full variable information



Table 1: OLS Importance of Judicial Appointments

	(1) Relative Importance of Judicial Nominations
Average Importance	-0.307*** (0.0751)
Strong Democrat	0.488* (0.212)
Weak Democrat	0.283 (0.180)
Lean Democrat	0.481* (0.194)
Lean Republican	0.384 (0.238)
Weak Republican	0.421* (0.194)
Strong Republican	0.912*** (0.181)
Female	-0.240* (0.102)
White	-0.0830 (0.104)
Educational Attainment	0.0827 (0.0477)
Age Group	0.108** (0.0392)
Household Income	0.0450 (0.0237)
Web Survey	0.100 (0.131)
Constant	0.0504 (0.434)
Observations	511

Standard errors in parentheses

Pure independents are the omitted reference category for partisanship.

\*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$

Table 1 shows that when compared to pure independents, each group of partisans perceives the relative importance of judicial appointments to be higher ( $p < .11$ , in all cases). To highlight this effect, we plot the predicted values by partisanship in Figure 2. But to further probe into the differences between the two parties, we conduct F-tests to determine whether the coefficients for the partisan groups are different. We find that strong Republicans perceived judicial appointments as significantly more important ( $p < .05$ , in all cases) than other partisan groups. Specifically, the predicted relative importance scores are -0.08 for strong Democrats, -0.56 for pure independents, and 0.34 for strong Republicans. This suggests that while both Democrats and independents generally perceived Supreme Court appointments as less important than other issues, strong Republicans viewed the issue as more important than the average. Thus, our results are consistent with both our expectations and the general media narrative of the time that judicial appointments would be perceived as more important for Republican partisans.

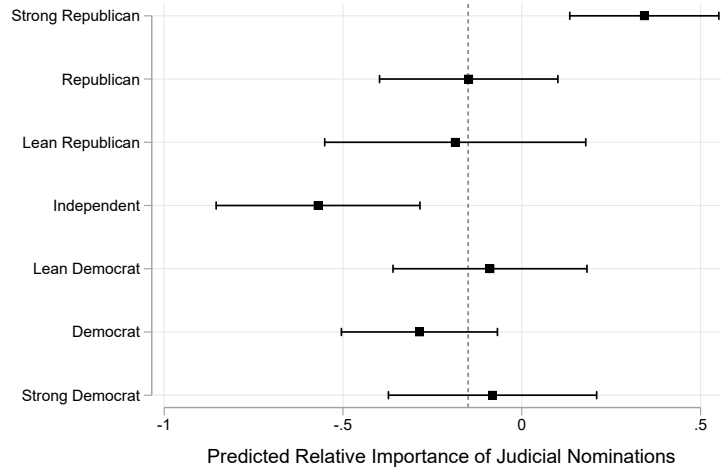


Figure 2: Effects of Partisanship on Relative Importance of Judicial Nominations. Dashed vertical line represents the mean relative importance of judicial nominations. From Table 1.

However, it is worth noting that while the NORC survey shows some partisan variation in the importance of Supreme Court nominations<sup>12</sup>, it does not allow us to test for the role of political knowledge. Though we control for education, research suggests that education may be a poor proxy for the actual concept of political knowledge (Highton 2009). Moreover, the NORC data do not allow us to test how these considerations relate to vote choice as there were no questions about presidential or Senate candidate preferences. Therefore, in Study 2 we use an alternative data set to examine the hypothesized link between Supreme Court nominee preferences and voting.

## Study 2: 2018 Senate Elections

To examine whether the Supreme Court is an important issue for voters in Senate elections, we use data from the 2018 Cooperative Congressional Election Study (CCES).<sup>13</sup>

<sup>12</sup>However, in the appendix we demonstrate that those who viewed the judicial nominations as more important were more likely to report that they'd turnout to vote. However, the limited nature of self-report measures of turnout intentions prevent us from making strong conclusions about the role of judicial appointments shaping political behavior in the 2016 presidential election, outside of the fact that voters seemed to view judicial appointments as important. Thus, we regulate this analysis to an appendix.

<sup>13</sup>For information, see <https://cces.gov.harvard.edu/>

We focus on all 2018 Senate races that featured a major-party incumbent opposed by a candidate from the opposite major party.<sup>14</sup> This leaves us with a sample of over 16,000 verified voters<sup>15</sup> from 27 states. Our dependent variable is whether the respondent voted for the incumbent candidate. This takes the value 1 if they did and 0 if they voted for one of the challengers.

All respondents were asked whether they supported or opposed the confirmations of Supreme Court nominees Neil Gorsuch and Brett Kavanaugh. We use respondents' answers to these two questions to measure congruence with the votes cast by their sitting senators. Specifically, we create indicators for whether a respondent was congruent with 0, 1, or 2 judicial confirmation votes.<sup>16</sup> This measure of congruence serves as our independent variable in determining the role that Supreme Court nominations play in vote choice. In our sample of verified voters, 33.32% were not congruent with either vote, 27.18% were congruent with one vote, and 39.50% were congruent with both votes. Although both confirmation votes were highly polarized along party lines, agreement is not perfectly correlated with shared partisanship; 32.76% of voters represented by an incumbent from the same party disagreed with at least one of their incumbent's votes, while 29.22% of voters represented by an incumbent from the opposite party agreed with at least one of their incumbent's votes.

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<sup>14</sup>This omits the open-seat contests in Arizona, Tennessee, and Utah, the race in California, where the general election featured two Democrats, and the elections in Maine and Vermont, where the incumbents were independents.

<sup>15</sup>The CCES contracts with a private firm which allows the survey data to be matched to public voting records. For more information, see Ansolabehere and Hersh (2012). Models in the Appendix show that our results hold whether or not the sample is restricted to only verified voters.

<sup>16</sup>In the appendix, we estimate congruence with the Kavanaugh and Gorsuch confirmation votes individually rather than a count. Results for the entire sample indicate that congruence with both nominees predicted whether voters should vote for the incumbent candidate. The effect for Kavanaugh is much stronger than the effect for Gorsuch. This could be due to the fact that Kavanaugh's hearing was more recent and in many ways more controversial. Results across partisan groups are less clear. For Republicans, the Gorsuch vote did not significantly predict support for the incumbent. For Democrats, only at the higher end of the knowledge scale did the Gorsuch vote predict voting for the incumbent.

One assumption of our test of whether congruence with judicial confirmation votes influence a voter's decision to vote for or against the incumbent is that voters know how their incumbent voted on these judicial confirmations. In many cases, this assumption may not be met. Prior research has demonstrated that the public is by-and-large uninformed about political events (Delli Carpini and Keeter 1996). And when look specifically at knowledge of six 2005-2006 senate roll-call votes, Dancey and Sheagley (2016) report that the proportion of correct responses ranged from 0.31 to 0.57. Thus, we anticipate any effects of congruence should be conditional upon political knowledge. The CCES included six objective knowledge questions: the party in the majority of the U.S. House, the party in the majority of the U.S. Senate, and the party identification of the respondent's current U.S. Senators, U.S. House member, and governor. We code each as 1 if the respondent gives the correct answer and then take the mean across the questions answered. These knowledge items have a high degree of scale reliability ( $\alpha = .86$ ). The resulting variable ranges from 0-1 and indicates a rather high level of knowledge in our sample (mean=.72; standard deviation=.342; median=.83).<sup>17</sup>

To show how congruence on these confirmation votes compared to congruence on other roll calls, we also include a variable indicating whether the respondent's position on abortion after 20 weeks lines up with the way the incumbent senator voted on a motion of cloture on a bill that would ban such procedures. This will allows us to put our findings into perspective, as abortion is a highly salient and partisan issue. And to account for more general policy and partisan congruence, we include measures for partisanship and ideological distance. Partisanship is derived from the respondent's identification on the standard 7-point scale and is coded in the direction of the incumbent's party. Ideological distance is the absolute value of the difference between the respondent's self-placement on the 7-point ideological scale and where the respondent places the incumbent on that scale.

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<sup>17</sup>While an ideal approach would be to ask respondents how their Senator voted on these policies, the CCES does not do this. Therefore, we do not have data on respondents' beliefs about how their Senator voted. We assume that those who have high levels of political knowledge are more likely to know how their Senators voted on these policies.

Lastly, we include a number of demographic controls and state fixed effects.

Table 2 Column 1 shows the results of a logistic regression model for all survey participants. The large, significant coefficients for both ideological distance and partisan congruence are as expected. Yet, even in the presence of these significant effects, the judicial nomination congruence variables are still positive and significant, and as anticipated, this relationship is conditional upon political knowledge. We plot the relationship between judicial nomination congruence, knowledge, and incumbent vote choice in Figure 3. Figure 3 shows that, on average as a respondents' political knowledge increases, they are more likely to reward or punish their Senators based on whether or not they agree with how the Senator voted in the judicial confirmation hearings. To draw a substantive example, we examine how the probability of an individual with the mean level of political knowledge (.72) voting for the incumbent Senator varies across the number of congruence judicial confirmation votes. For an individual who is congruent with both votes, the probability of voting for the incumbent is .682 while the probability of voting for the incumbent is .580 and .458 for an individual who is congruent with one and zero judicial confirmation votes, respectively. These results demonstrate not only that congruence with judicial nominees is associated with an individual's decision to vote for or against the incumbent candidate, but that the strength of this association is particularly substantive.

Table 2: Logit Regression: Incumbent

	(1) Everyone	(2) Republicans	(3) Democrats
One Nominees Congruence	0.142 (0.386)	-0.122 (0.538)	0.301 (0.722)
Two Nominees Congruence	0.697 (0.447)	0.226 (0.719)	0.660 (0.777)
Abortion Congruence	0.243 (0.334)	0.730 (0.508)	-0.208 (0.604)
Political Knowledge	-1.079** (0.399)	-0.515 (0.543)	-1.617* (0.755)
One Nominee $\times$ Knowledge	2.144*** (0.454)	1.792** (0.638)	3.187*** (0.897)
Two Nominees $\times$ Knowledge	3.519*** (0.529)	3.576*** (0.858)	4.536*** (0.974)
Abortion $\times$ Knowledge	0.498 (0.387)	-0.304 (0.599)	1.145 (0.736)
Ideological Distance	-0.797*** (0.0332)	-0.880*** (0.0500)	-0.551*** (0.0681)
Party Agreement	0.852*** (0.0282)	0.470*** (0.0909)	0.569*** (0.124)
Female	-0.0696 (0.0958)	-0.0181 (0.144)	-0.431* (0.209)
White	-0.467*** (0.132)	-0.816*** (0.220)	-0.886*** (0.251)
Education	0.0322 (0.0342)	0.0117 (0.0515)	0.0712 (0.0716)
Age Group	0.00633* (0.00305)	0.0116* (0.00461)	0.00803 (0.00640)
Family Income	-0.0113 (0.0156)	0.0228 (0.0236)	-0.0435 (0.0328)
State Fixed Effects	Yes	Yes	Yes
Constant	-2.085*** (0.573)	-0.970 (0.844)	-0.288 (1.288)
Observations	13215	5019	6799

Standard errors in parentheses

\*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$

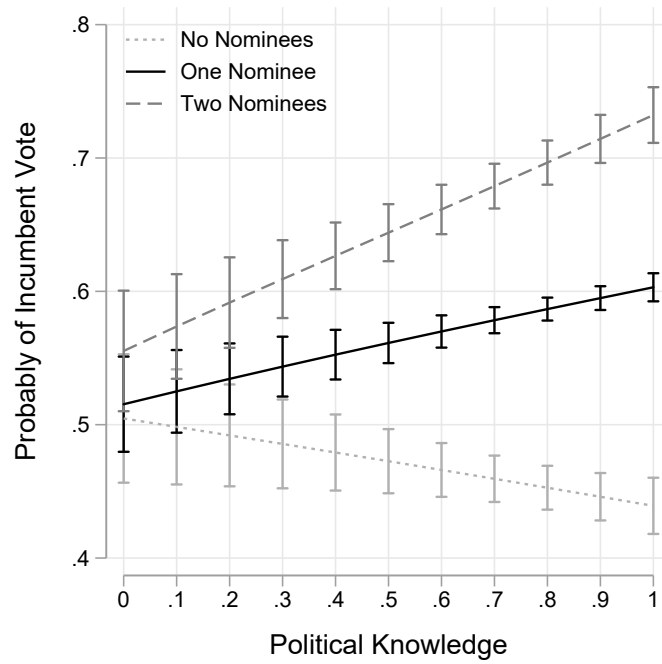


Figure 3: Effect of Congruence with Judicial Nominees and Political Knowledge on Incumbent Vote.

Results from Table 2, Column 1



To further demonstrate the substantive effect of judicial confirmation votes, Figure 4 plots the marginal effect of congruence with 1 or 2 judicial confirmation votes and a cloture vote to ban abortion after 20 weeks. The cloture vote on the 20 week abortion ban is a good benchmark to compare the effect of Supreme Court confirmation votes for two reasons. First, abortion is a salient issue that shapes individuals political behavior in significant ways (Abramowitz 1995; Layman and Carsey 1998). Second, while the cloture vote was procedural and the substantive issue never came to the floor, the vote did receive substantial media coverage<sup>18</sup> Figure 4 demonstrates that while congruence with the abortion ban cloture vote did increase the probability of voting for the incumbent Senator, the substantive effect is much smaller than congruence with judicial nominees. For example, at the average level of political knowledge, the effect of congruence with one judicial nominee is 4.84 times larger than the marginal effect of congruence with the abortion cloture vote, while congruence with two judicial nominees is 8.79 times larger. Thus, it appears that congruence with judicial confirmation is particularly salient in voters' decision-making calculus relative to other Congressional votes.

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<sup>18</sup>See [The New York Time's coverage](#), for example.

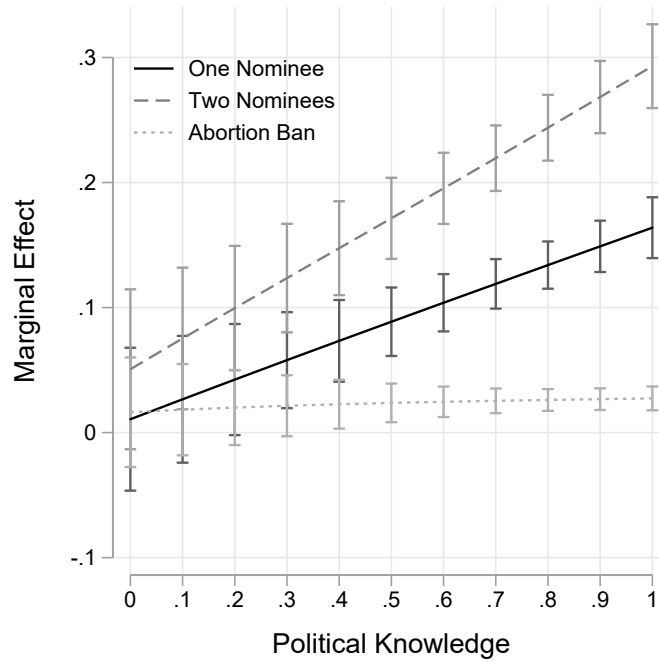


Figure 4: Marginal Effects of Congruence and Political Knowledge on Incumbent Vote Choice. Comparing Judicial Nominees to Abortion Ban Cloture Congruence. Results from Table 2, Column 1.

### 2018 Senate Elections: Partisan Differences

Next, we subset the data by the respondent’s party and re-estimate the model presented in Table 2. This allows us to determine if Supreme Court nominations are more important for Republican or Democratic partisans. These results are presented in Table 2 Column 2 and Column 3 and in Figure 5. The large partisan differences in the likelihoods of voting for the incumbent are likely due to the fact that only five out of the 27 races included in our sample featured a Republican incumbent. But even with these differences, the results still demonstrate that congruence with confirmation votes—conditional upon political knowledge—is a significant predictor of vote choice for *both* Democratic and Republican partisans. An examination of the changes in probability, however, reveal that the results are also somewhat consistent with the expectation that the Supreme Court matters more for Republican partisans. For example, at the mean level of political knowledge (.72), the change in the probability of voting for the incumbent that results from shifting from zero to two congruent votes is .22 for both parties. But, it appears that Republicans are

more concerned with having their incumbent Senator congruent with *both* confirmation votes rather than just one. Shifting from one to two congruence nominees produces a large shift for Republicans (.152) while the shift is much smaller for Democrats (.027).

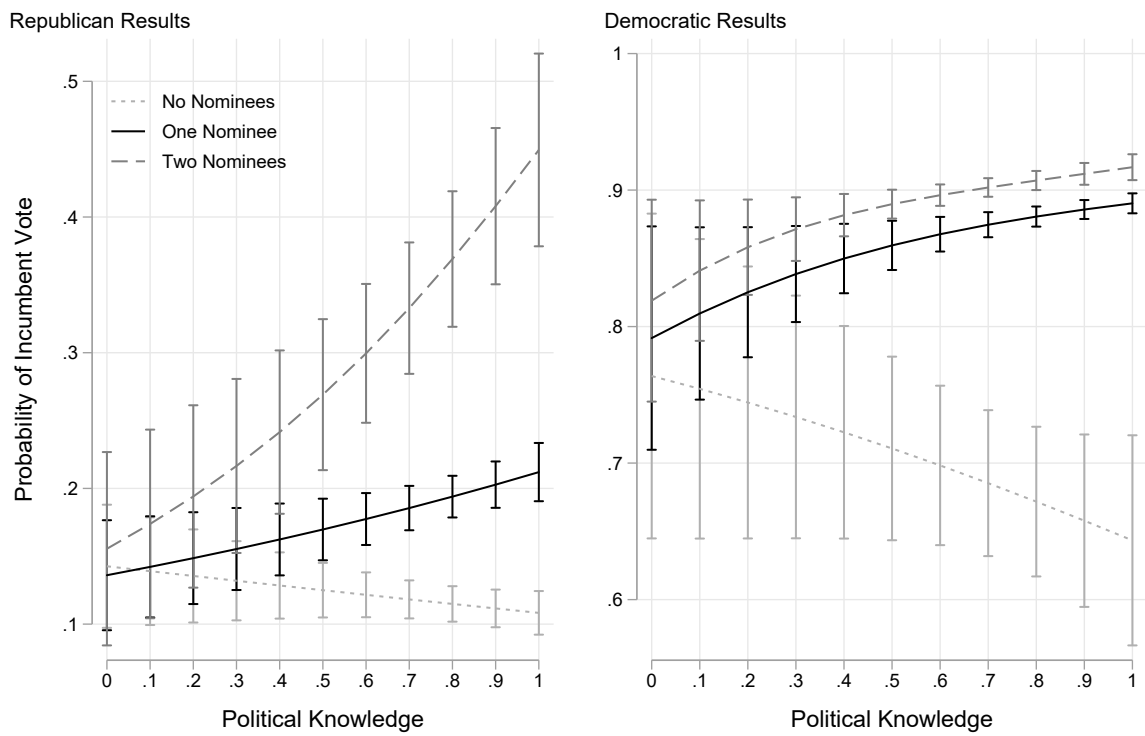


Figure 5: Effect of Congruence with Judicial Nominees and Political Knowledge on Incumbent Vote Choice by Party. Results from Table 1, Column 2 and Column 3.

To further demonstrate the substantive effect of confirmation votes across partisan groups, Figure 6 plots the marginal effect of congruence on 1 or 2 judicial confirmations and compares that to the marginal effect of congruence on the 20 week abortion ban cloture vote by partisan groups. Figure 6 demonstrates that while congruence with the 20 week abortion ban cloture vote did slightly increase the probability of voting for the incumbent Senator for both partisan groups, the substantive effect of congruence on the 20 week abortion ban cloture vote is again much smaller than congruence with judicial nominees.

Thus, it appears that *both* Democrats and Republicans perceive judicial confirmation and judicial candidates as equally if not more important than other political issues. Figure 6 further highlights the fact that Republicans were particularly concerned with being congruent with *both* confirmation votes relative to Democrats who appear mostly to be motivated by having at least one congruent confirmation vote.

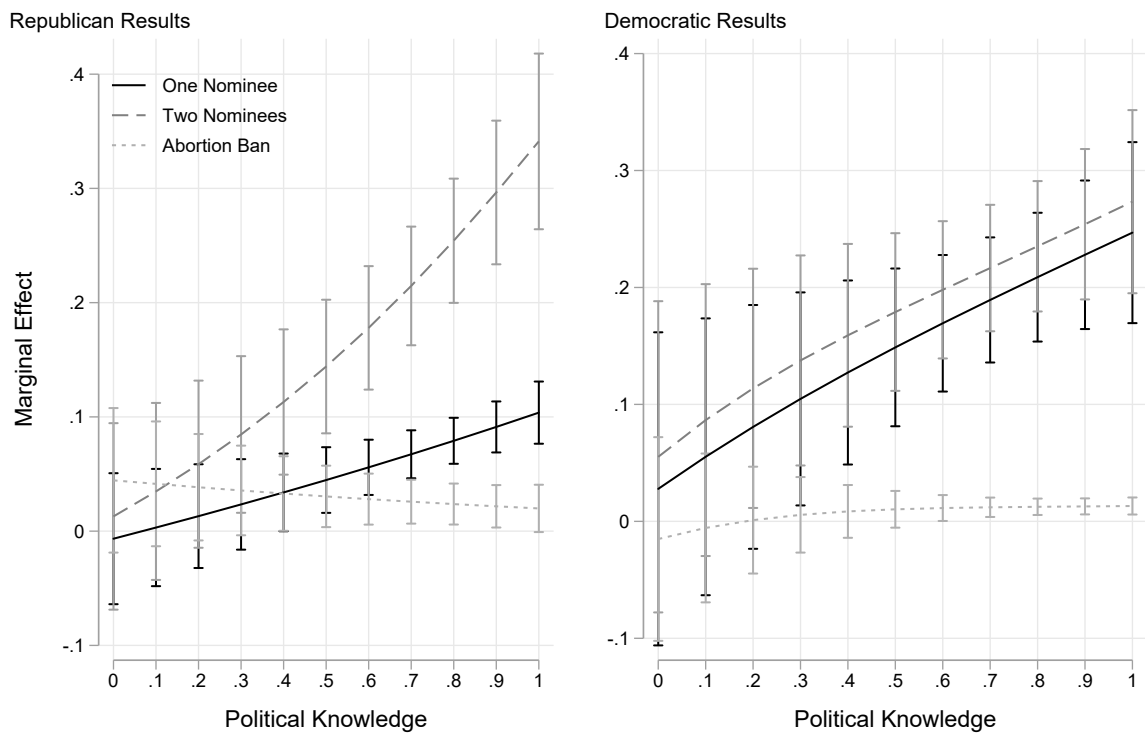


Figure 6: Marginal Effects of Congruence and Political Knowledge on Incumbent Vote Choice by Party. Comparing Judicial Nominees to Abortion Ban Cloture Congruence. Results from Table 2, Column 2 and Column 3.

### Study 3: Primary Vote Experiment

While the results presented thus far generally support our claims, the observational nature of the data used only allow us to show associations between the quantities of interest. Thus, in our final study, we use conjoint experimental design (Hainmueller, Hangartner and Yamamoto 2015) to isolate the connection between the importance of judicial nominations and candidate preference. Conjoint experiments have become increasingly popular in the study of vote choice and candidate evaluation (Hainmueller, Hopkins and Yamamoto 2014; Franchino and Zucchini 2015; Kirkland and Coppock 2017; Badas and Stauffer 2019; Ono and Burden 2019). Further, Hainmueller, Hangartner and Yamamoto (2015) make the case for the external validity of conjoint experiments by demonstrating that the results they produce predict real-world behavior.

Our experiment specifically told participants that they were engaging in a primary election in which they'd be selecting a candidate from their own party to run in a general election context against the opposition party<sup>19</sup>. The use of a primary election in which both candidates were from the subject's own party allows us to determine whether partisans *select* candidates based on their focus on judicial appointments. This question is distinct from Study 2 which asks whether voters reward or punish incumbent candidates based on their judicial confirmation votes.

Our design follows the conventional candidate selection paradigm of voter choice conjoint experiments in which participants are provided with two completely randomized profiles and are asked to select the candidate they prefer<sup>20</sup>. Randomized profiles are constructed using attributes and levels. Attributes can be conceptualized as variables

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<sup>19</sup>Each candidate had their party listed in their profile. Republican participants always viewed two candidates listed as Republicans on their profiles. Democratic participants always viewed two candidates who had their party listed as Democratic on their profiles. This was done to ensure participants recalled that they were engaging in a primary election context and did not accidentally try to assume partisanship based on other characteristics displayed.

<sup>20</sup>We also ask that participants rate each candidate on a scale ranging from 0-100. Those results (which are available in the appendix) are substantively similar to those on vote choice.

researchers are interested in studying. For example, candidate gender is often used as an attribute in conjoint designs. That attribute consists of levels or values that are displayed to participants. In the example of the gender attribute, the levels are often either female or male.

The focus of our conjoint experiment is an attribute which lists the candidate’s number one issue priority. For both Republican and Democratic candidates, this attribute could take on one of 13 values. Eleven of these attribute values (listed in the appendix) were included for comparison and varied by party to better match the appropriate platform and to increase the realism of the experiment. The remaining two values conceptualize a candidate’s focus on Supreme Court appointments. For Republican candidates, the attribute can indicate that the candidate’s priority is “confirming qualified Supreme Court nominees” or “confirming conservative Supreme Court nominees.” For Democratic candidates, the attribute can indicate that the candidate’s priority is “ensuring only qualified Supreme Court nominees are confirmed” or “blocking conservative Supreme Court nominees.” The differences in how candidates’ preferences are framed was done to increase the external validity of the study. At the time of our study, Donald Trump—a Republican—was president. And because the president nominates judicial nominees, it would not make sense that a Democratic candidate would be running on a platform to confirm liberal nominees. Therefore, our design allows us to determine whether ideological cues are required to activate support for candidates who prioritize the Supreme Court. As Sen (2017) demonstrates, the public is most concerned with political signals when deciding to support Supreme Court nominees. Thus, it may be expected that they only respond to candidates who explicitly mention the Court in relationship to ideology. Our designs allows us to test this. In addition to our attribute indicating the candidate’s number one issue priority, our conjoint experiment includes attributes on the candidate’s age, gender, race, education, experience, recent media topics, chances of winning the general election, family life, and military experience.<sup>21</sup>

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<sup>21</sup>Complete details on the attributes we use and the levels they can take are presented in the appendix.



We fielded our conjoint experiment as part of a survey fielded on Amazon’s Mechanical Turk (MTurk) between January 25, 2019 and February 1, 2019. To be eligible for participation, individuals had to be located in the United States and at least 18 years of age. Conducting research on MTurk has some potential limitations. Berinsky, Huber and Lenz (2012) show that MTurk samples tend to not be representative of the United States population and thus the external validity of studies conducted on MTurk may be diminished. However, despite non-representative samples, many studies have demonstrated that MTurk produces consistent results that replicate across nationally representative samples (Clifford, Jewell and Waggoner 2015; Thomas and Clifford 2017; Coppock 2018). To further ensure data quality, we use the protocol developed by Winter et al. (2019) to ensure participants are located in the United States and that each participant completed the survey only a single time. We recruited 779 participants who each viewed 5 sets of candidate profiles. Our sample consisted of 517 Democrats and 262 Republicans.<sup>22</sup>

To test whether voters are responsive to a candidate’s discussion of the Supreme Court, we compared marginal means (Leeper, Hobolt and Tilley 2019). Due to the forced choice nature of our candidate selection experiment, the overall mean of a candidate being selected is .50. The marginal mean represents the probability of a candidate being selected conditional upon an attribute level being displayed. Means above .5 indicate that the particular attribute level increases support for a candidate while means lower than .5 indicate that the particular attribute level decreases support for a candidate. Due to the complete randomization of profiles, each attribute level is independent of all other attribute levels.

## **Republican Participants**

We first analyze the Republicans participants. The marginal means and their 95% confidence intervals are displayed in Figure 7. For ease of visualization, only the issue priority feature is displayed. Full results are available in the appendix. The results indicate that Republican participants are more likely to favor candidates who mention the Supreme

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An example of what participants were asked to view is also available in the appendix.

<sup>22</sup>Pure independents are omitted from our analyses.

Court. However, this effect is limited to candidates who explicitly mention confirming conservative Supreme Court nominees. Republican primary candidates whose number one issue priority is confirming conservative Supreme Court Justices are selected 57% of the time, or 7% more than the baseline ( $p. < .05$ ). Candidates mentioning confirming qualified Supreme Court nominees did not see an increase in support. Those candidates were selected 47.4% of the time, which did not significantly differ from the baseline of 50%. Further, confirming conservative Supreme Court nominees was the most popular priority for all Republican candidates<sup>23</sup> These results further validate our observational survey data, which demonstrated that Republican voters viewed the Supreme Court as an important issue. Additionally, these results support the general findings of Sen (2017) who found that the public were particularly concerned with judicial ideology when evaluating potential judicial nominees.

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<sup>23</sup>We fully grant that this may be somewhat time dependent. As the agenda shifts to new topics, Republican voters may find other issues are more popular.

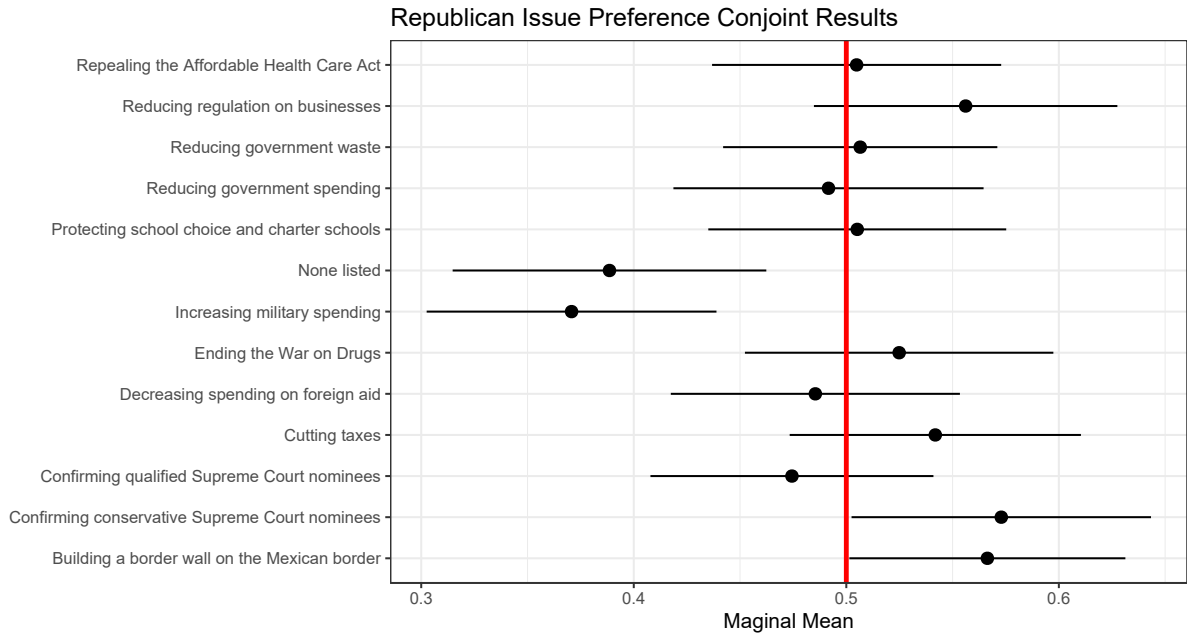


Figure 7: Results for Republican Participants

### Democratic Participants

Now we turn to the Democratic participants. The results are presented in Figure 8. For ease of visualization, only the issue priority feature is displayed. Full results are available in the appendix. Contrary to what we found with Republican participants, Democratic participants do not respond positively to mentions of Supreme Court nominees. Democratic candidates whose number one issue priority was “ensuring only qualified Supreme Court nominees were confirmed” were selected 46% of the time, which did not vary significantly from the baseline of 50%. On the other hand, Democratic candidates whose number one issue priority was “blocking conservative Supreme Court nominees” were punished by Democratic participants and selected just 39.1% of the time, which represents a significant departure from the baseline ( $p. < 05$ ). Further, blocking conservative Supreme Court nominees was the least popular issue priority for Democratic candidates. While this result may be somewhat surprising, the survey experiment was conducted after President Trump and the Republican controlled Senate had confirmed both Neil Gorsuch and Brent Kavanaugh to the Supreme Court. Considering President Trump and the Republican Senate’s success confirming two conservative nominees, it may be the case that Democratic participants

saw this as a losing issue and that reflected poorly on the candidate. Moreover, the differences between a majority party (i.e., the Republicans) issue statements and a minority party (i.e., the Democrats) issue statements may have elicited different responses. That is, while our Republican treatments emphasized ideology and the positive forward movement of an agenda, the Democratic treatments necessarily involved obstruction that may have been viewed as partisan. This is important, as prior research indicates legislative behavior perceived as overly partisan or as contributing to gridlock is more likely to be punished (Carson et al. 2010; Flynn and Harbridge 2016). Yet whatever the reason, these results do further validate our observational survey data which demonstrated that Democratic voters viewed the Supreme Court as a less important issue than the Republicans. In our conjoint experiment, the Supreme Court did not positively—and even negatively—affected candidate selection.

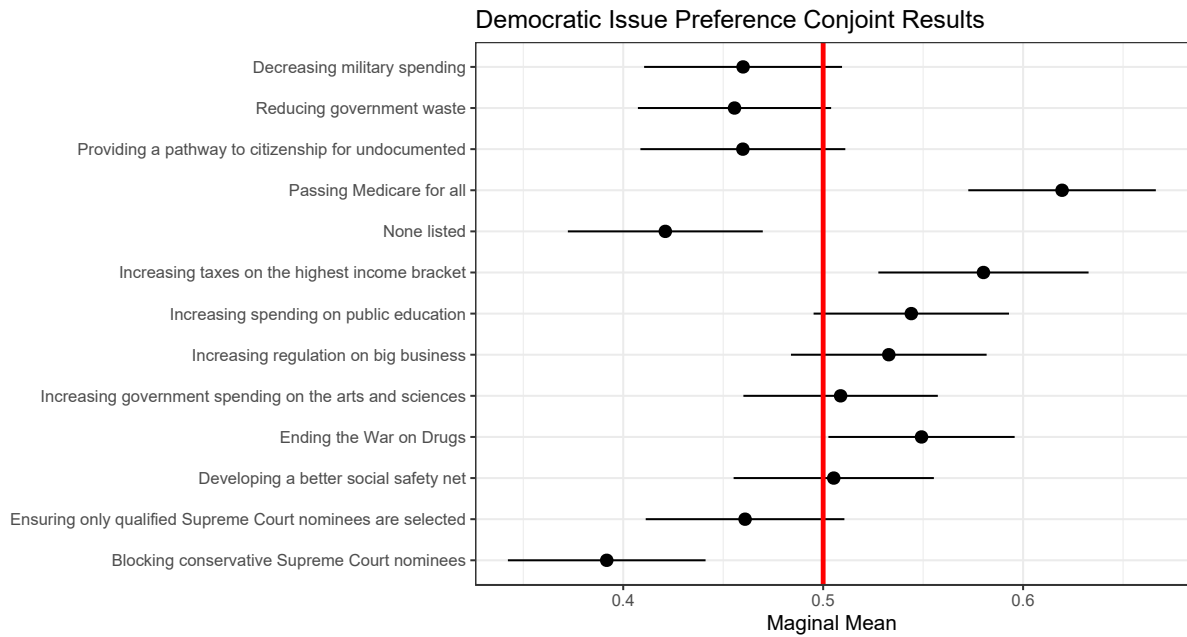


Figure 8: Results for Democratic Participants

## Implications and Conclusions

Although the U.S. government contains three separate institutions, the analyses presented here suggest that preferences for one spillover into considerations of another. Specifically, we find evidence consistent with the argument that Supreme Court nominations factor into the voting decisions of a substantial subset of Americans. Across three studies, we show that partisans are more likely to consider the Supreme Court appointments as an important electoral issue, both Democrats and Republicans are more likely to vote for incumbent Senators when they agree with the confirmation votes cast by those senators, and Republicans are more likely to support candidates who make appointing conservative justices a priority. These results are consistent with the increasingly partisan and “team” nature of U.S. politics (Abramowitz and Webster 2016) and offer new insights into how voters evaluate both sitting senators and judicial nominees. A resulting implication is that maintaining ideological consistency at all levels may be so important that voters may be willing to compromise on the personal quality of the nominees and candidates. Indeed, the Republican candidates in our experiment received a significant boost only when promising ideological conservative judicial nominees; a promise of high quality nominees did not alter

support in any significant way. In the context of recent events, this may help explain how Roy Moore was still able to earn over 48% of the vote in his 2017 Alabama Senate race and why opinions about Gorsuch and Kavanaugh's confirmation were so polarized. Whether this apparent commitment to ideology is driven by actual issue stances or more symbolic, identity-driven concerns (Mason 2018) is something that future work should explore. Recent evidence (Chen and Bryan 2018) is more consistent with the former, but more precise testing is needed.

In addition, more should be done to probe the partisan asymmetries in our results. While our findings of greater importance among Republican respondents is consistent with other works suggesting that the GOP is the more ideological of the two parties (Grossmann and Hopkins 2016), we cannot ignore the possibility that majority vs. minority status may also be at play. Each of our three studies focused on a time where Republicans controlled both keys to the nomination process: the presidency and the Senate. Studies conducted when one or both are under Democratic control may produce different results. Similarly, the ideological balance of the Supreme Court may also play a role. Scalia's passing effectively left the Supreme Court with a 4-4 ideological split, undoubtedly increasing the stakes in the battle over his replacement. Were the composition more lopsided, individual voters may adjust the weights that they apply.

On the whole, our results indicate that the Supreme Court and judicial appointments are an important electoral issue. This suggests that while voters have no direct say in nomination or confirmation of judicial candidates, they are aware of their indirect influence on the process and behave accordingly. First, as Kesteliec, Lax and Phillips (2010); Kesteliec et al. (2015) demonstrate through voicing their opinions as judicial nominees are pending. Senators then consider these opinions when deciding whether or not to confirm nominees. Second, as our research demonstrates, voters can influence the process by rewarding or punishing Senators based on their votes. If voters do not like the nominees their incumbent Senator confirms, our findings indicate that voters will be more likely to vote them out of office — even after accounting for partisan and ideological congruence. This twofold

mechanism through which voters influence the confirmation process potentially assuages concerns over the counter-majoritarian nature of the judiciary (Bickel 1962), as it indicates that voters have more influence than traditionally assumed.

While our results demonstrate the importance of the Supreme Court and judicial appointments as an electoral issue, they do not speak to the implications for the judiciary as a whole. For example, in 2016 then-candidate Donald Trump released a list of potential Supreme Court nominees and promised to selected nominees exclusive from that list<sup>24</sup>. In the 2020 Democratic primary, candidates are pressured to release names of potential nominees<sup>25</sup>. Further, many of the 2020 Democratic primary candidates have released proposals for judicial reforms that seek to undo or minimize the influence of President Trump’s judicial nominees<sup>26</sup>. As candidates increasingly use the judiciary for electoral gains, it raises questions about how the judiciary can maintain its legitimacy and legalistic image in the face of increased importance, scrutiny, and polarization (Bartels and Johnston 2012; Bartels 2015). Further, publishing lists of potential judicial nominees has implications for the capacity of the individuals named to be independent and fair judges (Black and Owens 2016) Thus, future studies should probe the implications of the Supreme Court and judicial appointment’s importance as an electoral issue specifically as they relate to the judiciary’s legitimacy and the behavior of the judges implicated in such electoral appeals.

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<sup>24</sup>Source: [New York Times](#)

<sup>25</sup>Source: [Washington Post](#).

<sup>26</sup>Source: [New York Times](#)

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# Online Supporting Information

## The Supreme Court as an Electoral Issue: Evidence from Three Studies

### **Abstract**

Judicial nominations, particularly those to the Supreme Court, have been a salient topic in recent presidential and senate elections. However, there has been little research to determine whether judicial nominations motivate political behavior. Across three studies we demonstrate the important role judicial nominations play in influencing political behavior. In Study One, we analyze the extent to which voters perceive judicial nominations as an important electoral issue. We find that Republicans —and especially strong Republicans —are more likely to perceive judicial nominations as important. In Study Two, we analyze how congruence with an incumbent Senator’s judicial confirmation votes influences voters’ decision to vote for the incumbent. We find that congruence with a Senator’s judicial confirmation votes is a strong predictor of vote choice. Finally, in Study Three, we analyze data from an original conjoint experiment aimed at simulating a Senate primary election where voters must select among co-partisans. We find that Republican subjects are more likely to select a primary candidate who prioritizes confirming conservative Supreme Court nominees. Among Democratic subjects, however, we find that Democratic candidates who prioritize the Court might actually suffer negative electoral consequences. Overall, our results demonstrate the importance of judicial nominations as an electoral issue.

Word Count: 8532

Keywords: Supreme Court; Elections; Political Behavior; Judicial Nominations

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# 1 NORC Summary Statistics

Table 1: Summary statistics

Variable	Mean	Std. Dev.	Min.	Max.
Relative Importance of Supreme Court	-0.151	1.008	-4	2.143
Average Importance	3.838	0.682	1	5
Partisanship 7 point	3.755	2.012	1	7
Female	.49	-	0	1
White	0.634	-	0	1
Education	2.957	1.205	1	5
Age Group	2.891	1.359	1	5
Household Income	5.127	2.355	1	9
Web interview	.80	-	0	1

## 2 2016 Turnout Intentions

In the main text, we demonstrated that voters perceived judicial nominations as an important electoral issue. However, we are unable to speak specifically to the implications that had on the 2016 election. National election studies with validated voter turnout such as the Cooperative Congress Election Survey (CCES) and the American National Election Study (ANES) did not include items about the Supreme Court or judicial nominations in their 2016 surveys. Further, searches of the Roper Archives for datasets including questions about the Supreme Court or judicial appointments during the 2016 election are limited. However, the NORC study does provide limited opportunity to determine the implications of judicial nominations on the 2016 election. The NORC survey asked respondents how likely they were to turnout to vote on a 1-11 scale, where 1 represents certain that they will not turnout to vote and 11 represents certain that they will turnout to vote. Thus, we can determine if individuals who viewed judicial appointments as more important were more likely to report that they would turnout to vote. Self-reported measures of intention to vote are somewhat unreliable, as individuals tend to over-report their likelihood of voting (Bernstein, Chadha and Montjoy 2001), thus we understand any evidence provided using such measures is somewhat limited. However, considering the limited survey resources

available, the question provides the best evidence obtainable with existing surveys.

In modeling the likelihood of turnout, we take two approaches. First, we utilize the full scale 1-11 scale and estimate an ordinary least squares (OLS) regression model. Second, we create a dichotomous indicator that takes the value of 1 if the respondent reported that they were certain they'd turnout (11) and takes the value of 0 if the respondent reported any other value and estimate a logistic regression model. The reasoning is that those who report that they are certain to turnout may be the most likely to actually turnout (Greenwald et al. 1987). In addition, we control for other factors known to influence turnout such as race, gender, income, and education. We also control for the average issue important a respondent gave to the non-Supreme Court options. The results are displayed in Table 2, and Figure 1 and Figure 2. The results demonstrate that individuals who viewed judicial appointments as more important were more likely to 1) state that they were more likely to turnout to vote in the presidential elections and 2) state that they were certain that they'd turnout to vote.

This indicates that beyond being viewed as an important issue in the 2016 presidential election, judicial appointments has behavioral implications as well. Individuals who viewed judicial appointments as more important were more likely to report that they would turnout in the presidential election. Thus, judicial appointments may have stimulated turnout among voters. Based on our analyses presented in Table 1 and Figure 2 of the main text, it would likely mean that judicial appointments would have boosted the turnout of strong Republicans potentially benefitting Donald Trump in the 2016 election.

However, the limited nature of self-report measures of turnout intentions prevent us from making strong conclusions about the role of judicial appointments shaping political behavior in the 2016 presidential election, outside of the fact that voters seemed to view judicial appointments as important. Thus, we regulate this analysis to an appendix. Further, we believe our analyses in Study 2 and Study 3 successfully demonstrate the implications the Supreme Court and judicial appointments can have on political behavior.

Table 2: Models of Turnout Intentions

	(1) OLS: Continuous Turnout	(2) Logit: Certain to Turnout
RI Judicial Appointments	0.614*** (0.176)	0.443** (0.143)
Average Issue Importance	1.438*** (0.299)	0.757*** (0.219)
Strong Democrat	-0.0200 (0.387)	-0.594 (0.604)
Weak Democrat	-1.377** (0.510)	-1.778** (0.545)
Lean Democrat	-2.324** (0.754)	-2.179*** (0.601)
Independent	-2.150** (0.650)	-1.717** (0.624)
Lean Republican	-1.142* (0.468)	-1.551** (0.584)
Weak Republican	-0.0525 (0.378)	-0.667 (0.584)
Female	-0.0547 (0.324)	0.0593 (0.258)
White	0.0407 (0.420)	-0.0290 (0.316)
Educational attainment	0.555*** (0.142)	0.420*** (0.114)
Age	0.324** (0.125)	0.404*** (0.110)
Household income	0.250*** (0.0747)	0.128* (0.0601)
Survey Mode	-0.523 (0.486)	-0.267 (0.397)
Constant	1.418 (1.531)	-3.481* (1.388)
Observations	511	511

Standard errors in parentheses

\*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$

Strong Republicans are the omitted reference group for partisan groups.



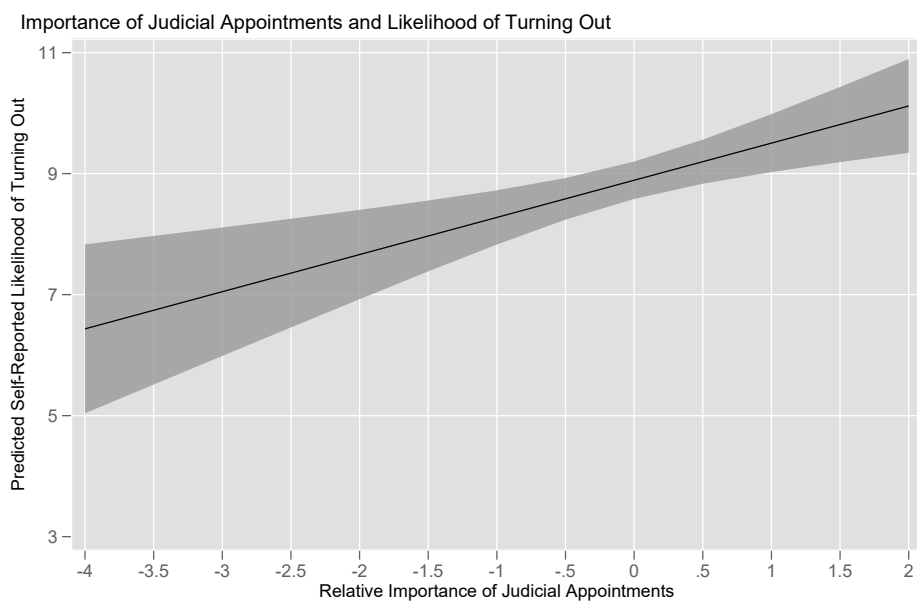


Figure 1: Predicted Values: OLS Turnout

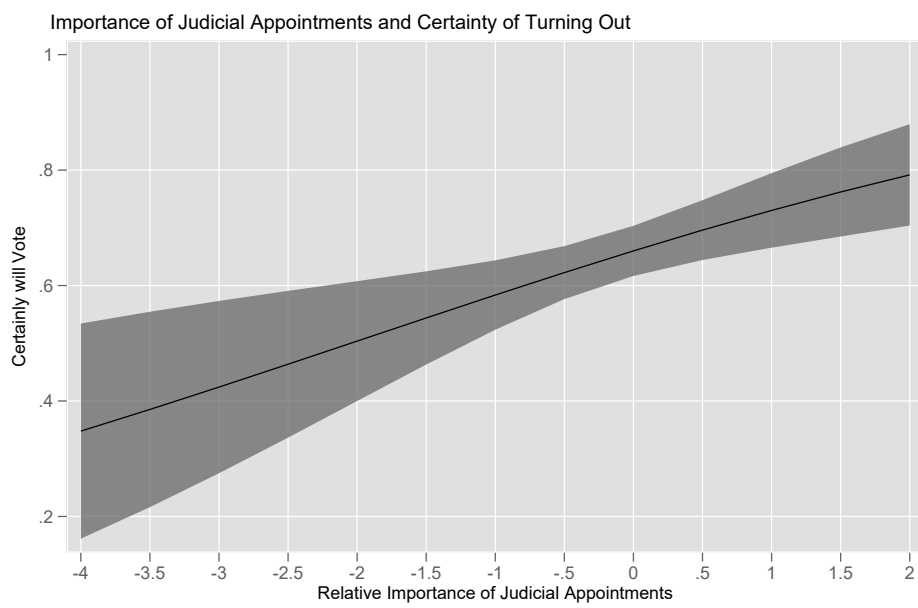


Figure 2: Predicted Probabilities: Logit Turnout

### 3 CCES Summary Statistics

Table 3: Summary Statistics Analysis

Variable	Mean	Std. Dev.	Min.	Max.
Voted Incumbent	0.572	-	0	1
Number of Congruence Judicial Votes	1.061	0.858	0	2
Gorsuch Congruent	0.505	-	0	1
Kavanaugh Congruent	0.557	-	0	1 1
Abortion Congruent	0.451	-	0	1
Political Knowledge	0.868	0.225	0	1
Ideological Distance	0.409	0.331	0	1
Partisan Congruence	0.555	0.382	0	1
Female	52.78	-	0	1
White	0.838	-	0	1
Education	3.94	1.507	1	6
Age	55.366	16.469	19	94
Household Income	6.894	3.289	1	16

### 4 CCES Correlation between Congruence Indicators

Table 4: Cross-correlation table

Variables	Gorsuch	Kavanaugh	# Nominees	Ideological Dist.	Party Dist.	Abortion
Gorsuch	—					
Kavanaugh	0.4245	—				
# Nominees	0.8448	0.843	—			
Ideological Dist.	-0.362	-0.6379	-0.592	—		
Party Dist.	0.379	0.720	0.650	-0.664	—	
Abortion	0.229	0.304	0.316	-0.291	0.299	—

### 5 Congruence by Party, Members of the Public

Table 5: Mass Public Congruency Nominees by Party

<b>Party</b>	<b>Mean</b>	<b>Std. Dev.</b>
Democrat	1.5	.68
Republican	0.5	.71
Independent	0.99	.75

## 6 Dates of CCES Congruence Vote Items

Table 6: Dates of Votes

<b>Vote</b>	<b>Date</b>
20 Week Abortion Ban Cloture	January-7-2018
Neil Gorsuch Vote	April-7-2017
Brett Kavanaugh Vote	October-6-2018
2018 Election	November-6-2018

## 7 Senator Voting Analysis of Individual Nominees

Here we estimate congruence with the Kavanaugh and Gorsuch confirmation votes individually rather than a count. Results for the entire sample indicate that congruence with both nominees predicted whether voters should vote for the incumbent candidate. The effect for Kavanaugh is much stronger than the effect for Gorsuch. Results across partisan groups are less clear. For Republicans, the Gorsuch vote did not significantly predict support for the incumbent. For Democrats, only at the higher end of the knowledge scale did the Gorsuch vote predict voting for the incumbent. There could be many potential explanations for this. First, the Kavanaugh confirmation vote was much closer to the mid-terms than Gorsuch’s confirmation vote. Second, while there was controversy surrounding both confirmations, in the context this of Gorsuch this included the claims that Republicans “stole” the seat from President Obama and the abolishing of the filibuster for Supreme Court nominees, that controversy appeared much more politically silent in the context of Kavanaugh as he faced claims of sexual assault. As we cannot adjudicate between these

competing claims, we believe the most defensible choice is to include congruence as a count.

Table 7: Logit Regression: Incumbent Vote

	(1) All	(2) Republican	(3) Democrat
Gorsuch	-0.151 (0.338)	-1.013 (0.668)	-0.124 (0.518)
Kavanaugh	0.971** (0.342)	1.602* (0.661)	0.440 (0.548)
Abortion	0.0855 (0.341)	-0.612 (0.632)	0.857 (0.522)
Political Knowledge	-1.375*** (0.362)	-2.183** (0.731)	-0.549 (0.528)
Gorsuch × Knowledge	0.573 (0.412)	1.366 (0.832)	0.508 (0.639)
Kavanaugh × Knowledge	2.958*** (0.408)	3.518*** (0.822)	3.063*** (0.651)
Abortion × Knowledge	0.672 (0.403)	1.600* (0.789)	-0.500 (0.620)
Ideological Distance	-0.713*** (0.0356)	-0.478*** (0.0741)	-0.832*** (0.0522)
Party Agreement	0.744*** (0.0301)	0.617*** (0.143)	0.457*** (0.0969)
Female	-0.0962 (0.105)	-0.442 (0.227)	-0.0235 (0.153)
White	-0.519*** (0.138)	-1.214*** (0.278)	-0.691** (0.231)
Education	-0.0384 (0.0373)	-0.0968 (0.0793)	-0.00880 (0.0547)
Age Group	0.0119*** (0.00335)	0.0114 (0.00717)	0.0185*** (0.00491)
Family income	-0.0183 (0.0168)	-0.0215 (0.0353)	-0.000338 (0.0252)
State Fixed Effects?	Yes	Yes	Yes
Constant	-1.693** (0.578)	0.0798 (1.412)	-1.506 (0.864)
Observations	13194	6790	5011

Standard errors in parentheses

\*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$

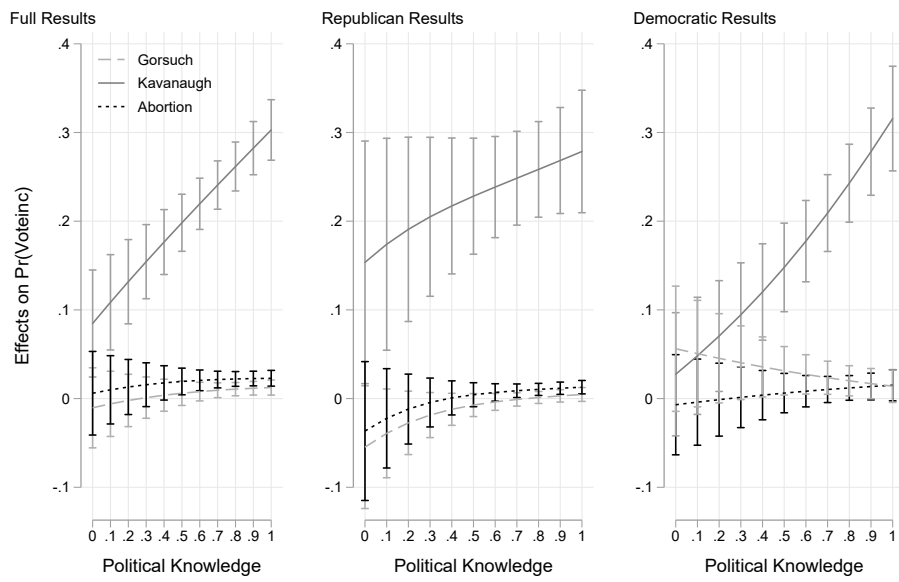


Figure 3: Marginal Effects for Individual Nominees

## 8 Congruence on Judicial Confirmation Votes and Partisan Congruence

In the main text, we demonstrated that voters hold incumbents accountable based on whether or not they are congruent with Supreme Court confirmation votes cast by those Senators. Considering the fundamental vote of partisanship in elections, some may argue that voters are unwilling to punish co-partisans for incongruent Supreme Court confirmation votes. Here we seek to assuage those concerns by re-estimating the models presented in Table 3 of the main text but with an interaction for number of congruent votes and partisan congruence. If the argument that voters are unwilling to punish co-partisans than at the highest and lowest level of partisan congruence there should be limited effects of congruence with judicial confirmation votes, and the bulk of the effect should be limited to independent and partisan leaners. The reestimated model is presented in Table 8 and the predicted probabilities across the range of partisan congruence are presented in Figure 4. The results demonstrate that across the entire range of partisan congruence that voters reward and punish incumbents based on the incumbent's votes on Supreme Court confirmations. Thus, the effect of congruence with Supreme Court confirmation votes is not limited to independents or weak partisans but is present for all voters.



Table 8: Logit Regression: Incumbent Vote

	(1) Incumbent Vote
One Nominee	0.928*** (0.201)
Two Nominees	2.241*** (0.268)
Party Agreement	0.716*** (0.0378)
One Nominee× Party Agreement	0.209*** (0.0494)
Two Nominees× Party Agreement	0.252*** (0.0634)
20 Week Abortion Ban	0.597*** (0.0820)
Political Knowledge	0.827*** (0.162)
Ideological Distance	-0.749*** (0.0259)
Female	-0.0658 (0.0751)
White	-0.377*** (0.0974)
Education	0.0522 (0.0272)
Age Group	0.00441 (0.00237)
Family Income	-0.0191 (0.0124)
State Fixed Effects	Yes
Constant	-2.866*** (0.400)
Observations	17380

Standard errors in parentheses

\*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$

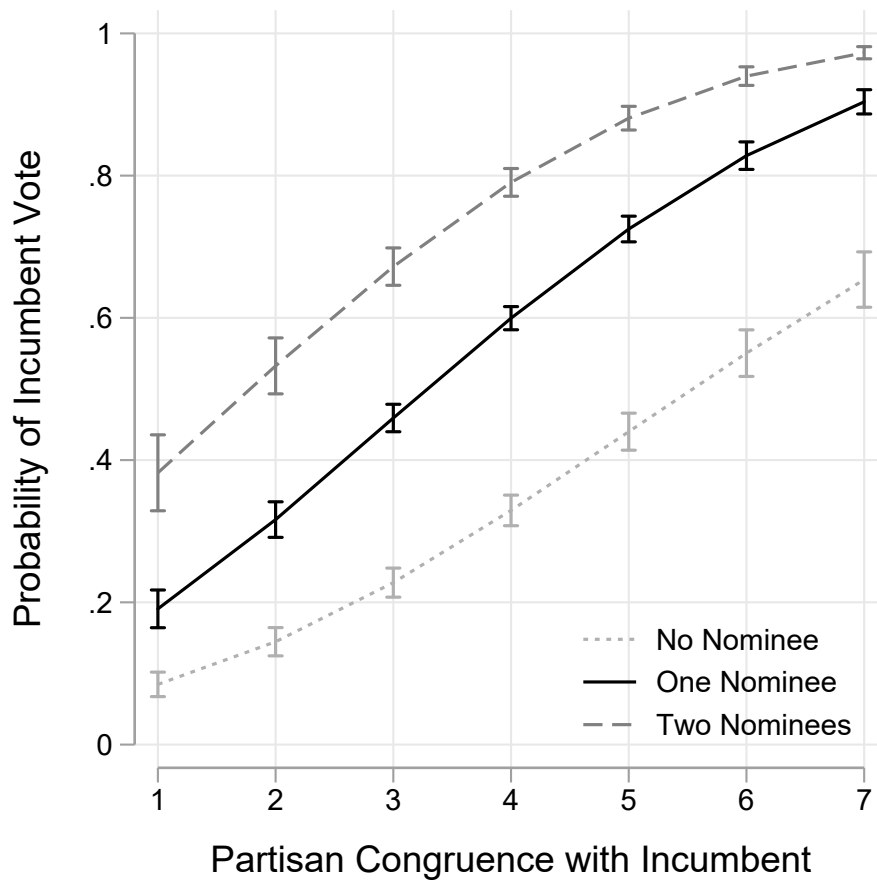


Figure 4: Marginal Effects for Individual Nominees

## 9 Conjoint Example

	<b>Choice 1</b>	<b>Choice 2</b>
<b>Likelihood of winning the general election</b>	Likely	Somewhat unlikely
<b>Family Life</b>	Widowed	Married with 4 children
<b>Gender</b>	Male	Male
<b>Education</b>	High school degree	High school degree
<b>In the News Recently for</b>	Named one of the state's most influential people	Tweeted a joke mocking handicapped individuals
<b>Partisanship</b>	Democratic	Democratic
<b>#1 Issue Priority</b>	Blocking conservative Supreme Court nominees	Reducing government waste
<b>Age</b>	65	47
<b>Race</b>	Hispanic	Black
<b>Prior political experience</b>	Incumbent Senator	President of the school board
<b>Military Experience</b>	National guard service	National guard service

Figure 5: Conjoint Profile Example: Democratic Participant

## 10 Conjoint Attributes and Levels

**Republican issues:** Confirming qualified Supreme Court nominees; Confirming conservative Supreme Court nominees; Repealing the Affordable Health Care Act; Reducing regulation on businesses; reducing government waste; reducing government spending; protecting school choice and charter schools; none listed; increasing military spending; ending the war on drugs; decreasing spending on foreign aid; cutting taxes; building a border wall on the Mexican border.

**Democratic issues:** Ensuring only qualified Supreme Court nominees are confirmed; Blocking conservative Supreme Court nominees; Reducing government waster; Providing a pathway to citizenship for undocumented immigrants; Passing Medicare for all; None listed; Increasing taxes on the highest income brackets; Increasing spending on public education; Increasing regulation on big business; Increasing government spending on the arts and sciences; Ending the War on Drugs; Developing a better social safety net; Decreasing military spending

**Age:** 75; 71; 68; 65; 63; 58; 55; 52; 50; 47; 42; 40; 35; 33; 30

**Gender:** Female; male

**Education:** Trade school; medical degree; master's degree; law degree; high school dropout; high school degree; GED; bachelor's degree

**Experience:** State representative; Senate intern; President of the school board; No prior experience; Member of the House of Representatives; Mayor of a small city; Mayor of a large city; Incumbent Senator; Community organizer; City council member; Assistant to the Governor

**Recent Media:** Tweeted joke mocking handicapped individuals; taking the lead in public opinion polls; received state-wide award for volunteer service; named one of the state's most influential people; named in connection to several campaign finance scandals; endorsed by the state legislature; endorsed by the local newspaper; endorsed by the governor; could not recall the length of a Senator's term in office; caught lying about qualifications; Accused of sexually harassing an intern; Accused of sexual assault while a teenager

**Changes of winning the General Elections:** Very likely; Likely; Somewhat likely; Toss-up; Somewhat unlikely; Unlikely; Very unlikely

**Family Life:** Single (never married); Single (divorced); Married with no children; Married with 4 children; Married with 3 children; Married with 2 children; Married with 1 child

**Military Experience:** Retire from the U.S Army; None; National guard service; Military reservist

## 11 Conjoint Full Results

In the main text, we presented abbreviated results that only demonstrated that attribute of interest. Here we present the full results. Figure 6 displays the results for Republicans and Figure 7 displays the results for the Democrats. Outside of our attribute of interest, we see that the attributes function as expected by previous research.

### Republican Participants: Candidate Selected



Figure 6: Full Conjoint Results: Republicans

### Democrat Participants: Candidate Selected

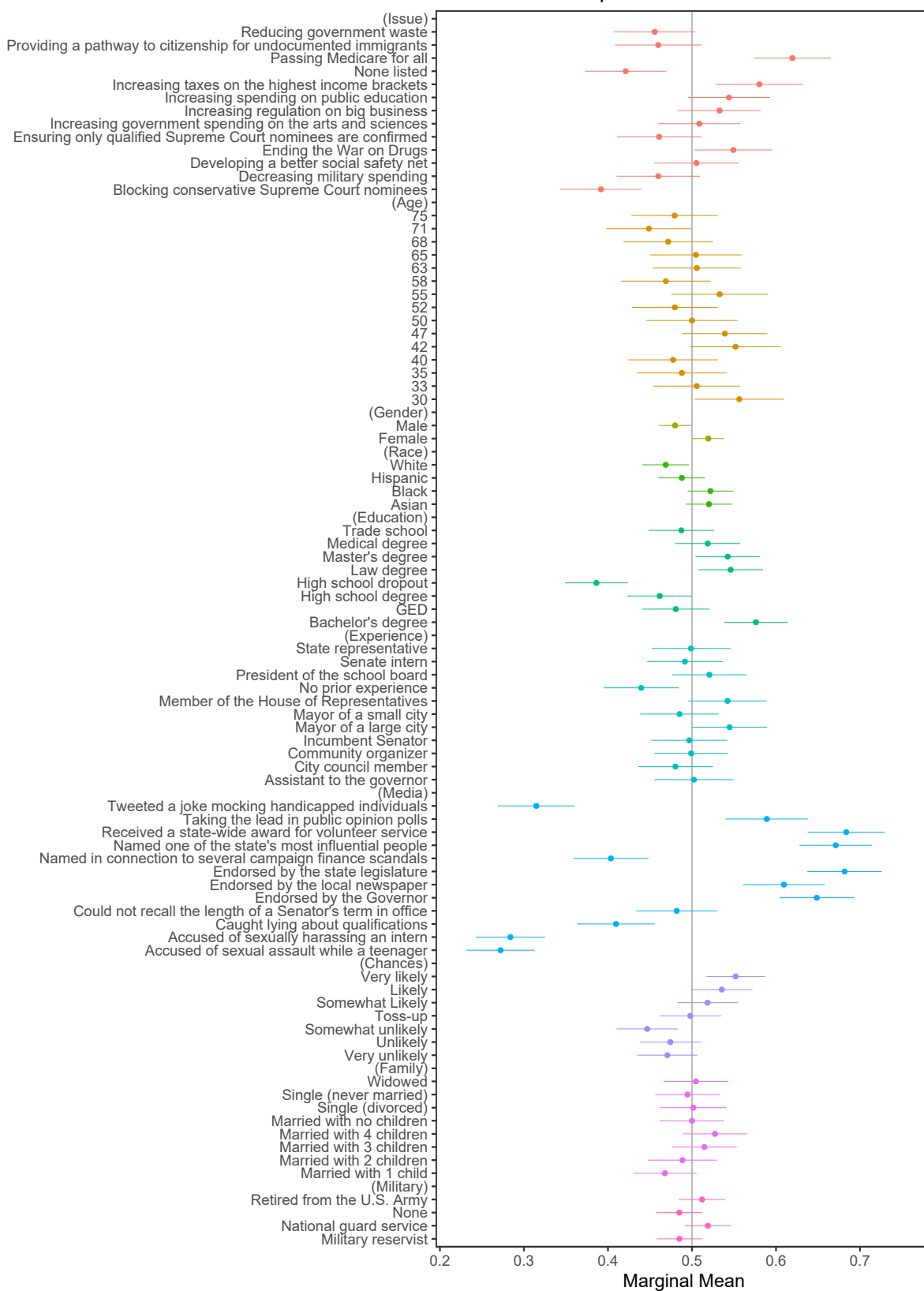


Figure 7: Full Conjoint Results: Democrats



# 12 Conjoint Experiment Candidate Rating Results

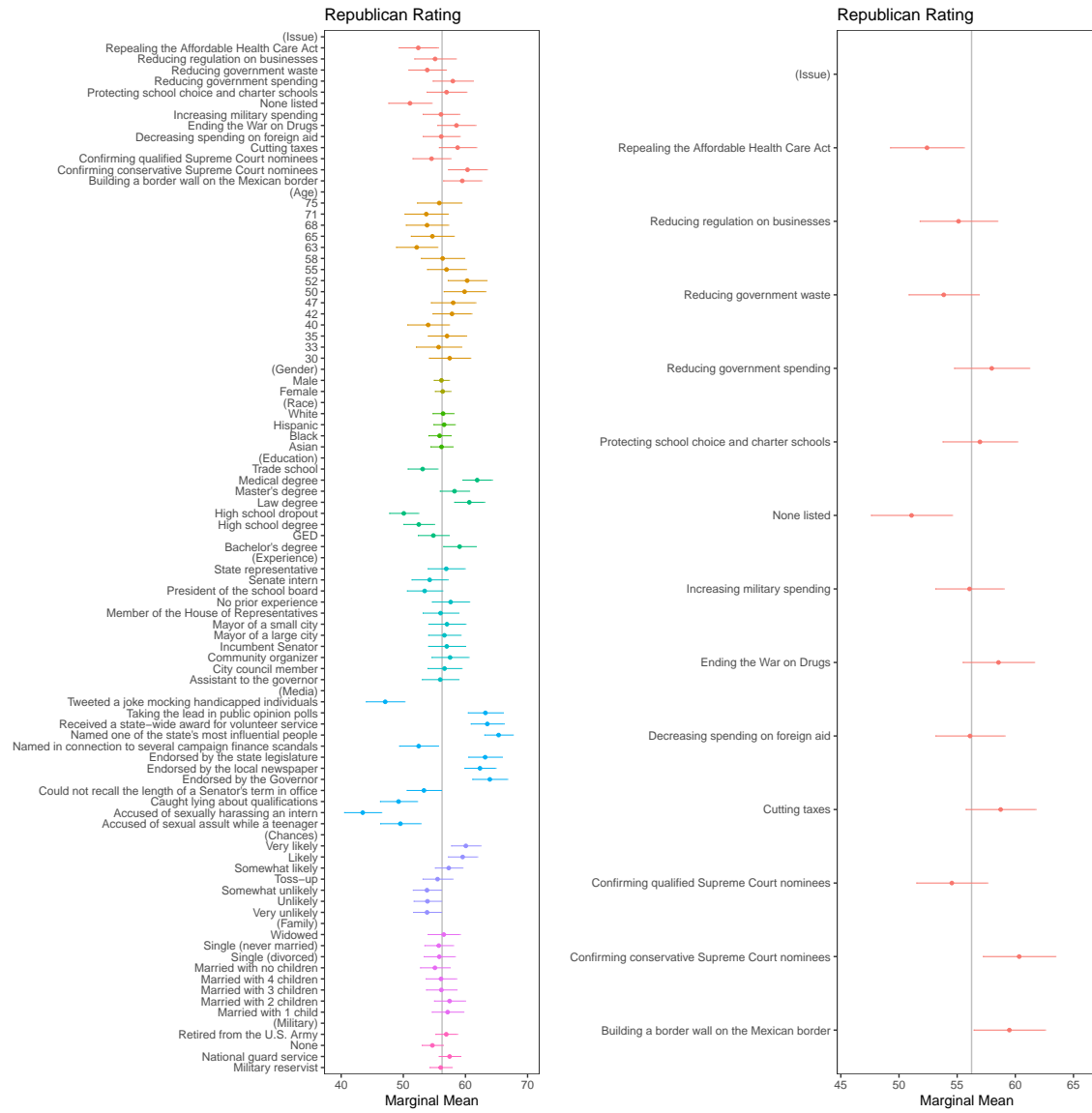


Figure 8: Rating Results for Republican Participants

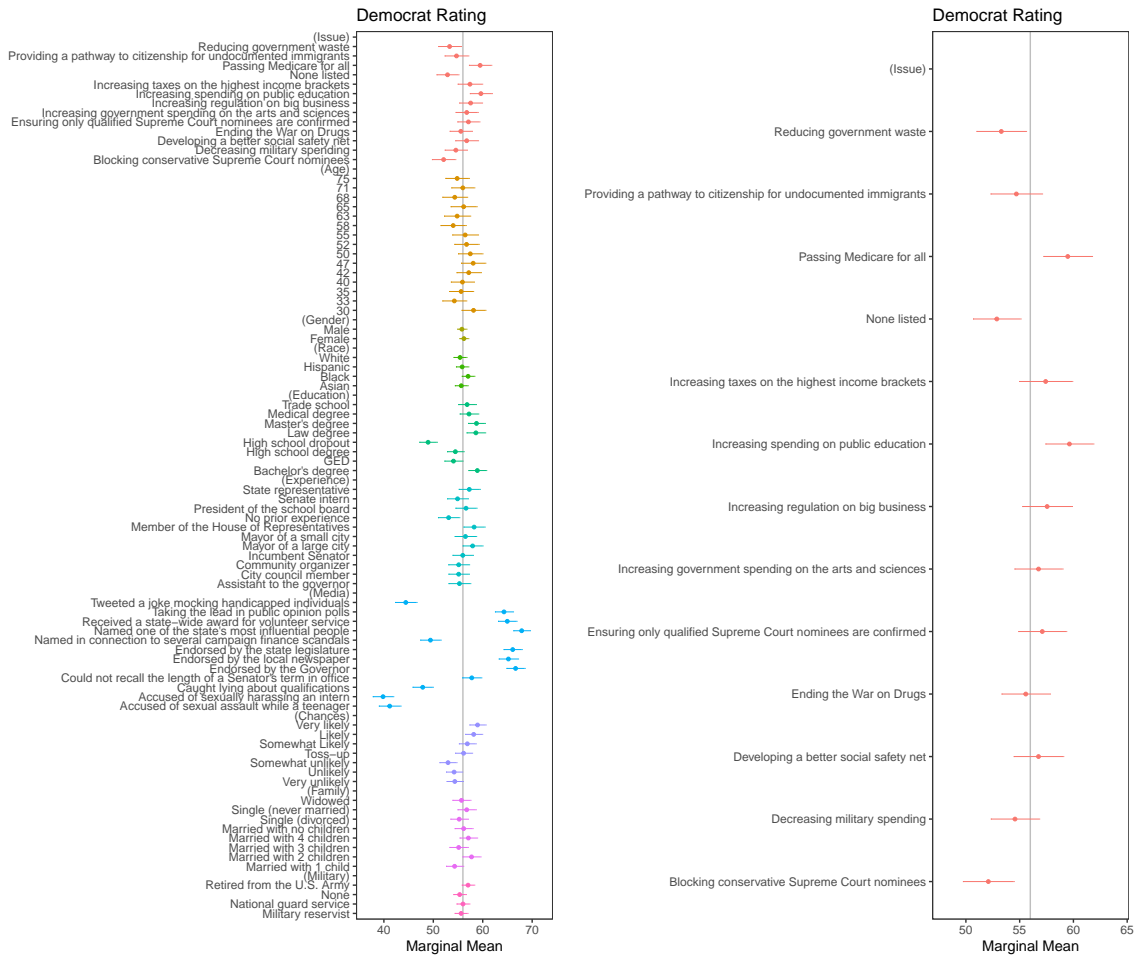


Figure 9: Rating Results for Democratic Participants

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