The Influence of Home State Reputation and Public Opinion on Federal Circuit Court Judges

Online Supplement

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1 Judicial Common Space

We account for each judge's ideological preferences using the Judicial Common Space (JCS) (Epstein et al. 2007).[1] The JCS uses the coding method suggested by Giles, Hettinger and Peppers (2001), who argued that when the norm of senatorial courtesy applies to a lower federal court judge's appointment, that judge's ideal point estimate mirrors the home-state senators' preferences. The estimate for such a judge is thus her home-state senators' Poole and Rosenthal first-dimension Common Space scores.[2] If there are two home-state senators from the president's party, the point estimate is the average of the two; if only one senator hails from the president's party, the point estimate is that senator's score. When senatorial courtesy does not apply to the judge's appointment, the judge's ideal point estimate is the president's first-dimension Common Space score. One benefit of using the JCS scores is that they are not endogenous to our dependent variable. The JCS scores in our data range from -0.699 to 0.608, with negative values reflecting liberal judges and positive values reflecting conservative judges. The median value is .013. The standard deviation is 0.348.

As a robustness check, we scrutinized the balance between judge ideology and state public mood. The data indicate that the distribution of the JCS indicator is quite similar across the range of the *State Public Mood*. This is important to note because one might wonder whether a judge's ideology is also a function of state-level opinion. It could be the case, for example, that more liberal (conservative) states generate more liberal (conservative) judges. This would lead to severe imbalance in the public opinion variable, leading to endogeneity concerns. What we want, instead, is a relatively balanced distribution of judge ideology across the states. As Figure 1 shows, we have relative balance among our judges.

[1]To obtain the JCS scores, go to: `http://epstein.wustl.edu/research/JCS.zip`.

[2]See, `http://www.voteview.com/dwnomjoint.asp`.

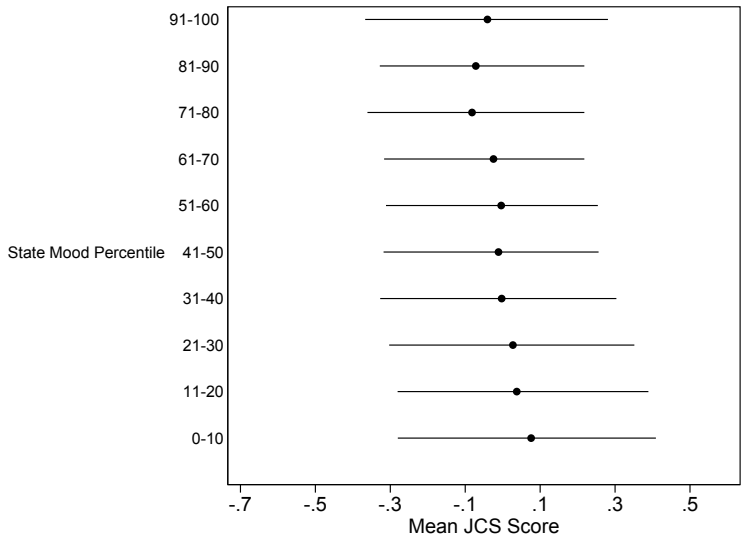

Figure 1: *Mean JCS Scores of Judges Across State Public Mood Percentiles.* Dots represent the mean JCS score for the judges within each percentile of state mood. Horizontal lines reflect 25th and 75th percentile values of JCS scores within state mood percentiles.

2 "Expatriate" Judge Analyses

Table 1 reports the regression results after splitting the sample into three groups: (1) native born judges (born, educated, and lives in the state); (2) "expatriate" judges (born and educated in one state, but moved to another where they became a circuit court judge); and (3) all other judges. If our theory is correct, expatriate judges will not follow state public mood where they live when they decide cases because they do not have the same reputational concerns. When we exclude expatriate judges and "all others" and fit our model examining *only* native born judges, we continue to find an effect for state mood. State mood influences whether native born judges vote liberally or conservatively. Next, when we exclude native born judges and "all other" judges and fit the model with only expatriate judges, we find *no state mood effect.* That is, state mood does not influence whether expatriate judges vote liberally or conservatively. When we examine only the "all other" judges (and exclude native born and expatriate judges from the models), we find no influence of state mood on whether the "all other" judges vote liberally or conservatively.

The reader will note that the coefficients for expatriate judges (Model 6) are large.

The effects, we believe, are the result of numerous regressors (some of which are correlated) with a relatively small sample. Indeed, when we reduce the number of regressors (Models 4 and 5), the coefficients behave more expectantly.

One might also wonder whether state mood is a proxy for ideology among native born judges since, in Model 3, the variable for Judge Ideology drops out of significance. We doubt it. For starters, the coefficient on ideology for native born judges is statistically significant in Models 1 and 2 (as is the coefficient on state public mood). And even if there is some correlation between the two, our main story would only be vulnerable if state mood was entirely a proxy for ideology among native born judges. We cannot believe this. It defies reason to believe that a judge's own ideology would shift perfectly consistent with changing public mood. Moreover, that only native born judges' ideologies would so change seems exceptionally unlikely. Why Judge Ideology falls out of significance in Model 3 we cannot be sure. (Likely, it is panel effects. Judge Ideology remains significant if we re-estimate Model 3 but remove the panel effects variables). Regardless, we believe our main findings are still on solid ground.

Next, we consider whether expatriate judges follow public opinion in their *originating* states. For example, does a judge who is born and educated in, say, Arizona, but who sits in California, still track Arizona public opinion? Table 2 reports the regression results among only expatriate judges while considering the impact of state mood from their birth states. In particular, Model 1 displays the results when substituting birth-state mood for the residence-state mood. And, Model 2 includes both state mood predictors (i.e., birth-state and residence-state mood). The results show that these expatriate judges follow neither their current state's public opinion nor their originating state's public opinion. In fact, the data suggest that an expatriate judge, on average, makes decisions that are counter to the mood of his or her birth state.

Table 1: The Impact of State Public Opinion on Circuit Court Judges — Native Born vs. "Expatriate" Judges

	Native Born Judges			"Expatriate" Judges			All Other Judges		
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
State Public Mood	0.019*	0.024*	0.022*	0.008	0.005	-0.028	0.006*	0.005	0.003
	(0.003)	(0.007)	(0.008)	(0.011)	(0.018)	(0.022)	(0.002)	(0.005)	(0.006)
Judge Ideology	-0.346*	-0.317*	-0.089	-0.736*	-0.675*	-2.238*	-0.539*	-0.401*	-0.430*
	(0.074)	(0.082)	(0.128)	(0.261)	(0.307)	(0.626)	(0.054)	(0.063)	(0.099)
Circuit Court Median		-0.294*	-0.262		-0.384	-1.009*		-0.605*	-0.508*
		(0.135)	(0.160)		(0.422)	(0.492)		(0.098)	(0.113)
Supreme Court Median		0.223	0.476*		0.614	1.347		0.204	0.244
		(0.192)	(0.250)		(0.660)	(0.838)		(0.152)	(0.195)
U.S. Position		0.945*	0.987*		0.775*	0.657*		0.848*	0.899*
		(0.041)	(0.050)		(0.128)	(0.158)		(0.031)	(0.038)
Democrat-Three Panel Dems			0.365*			0.464			0.173*
			(0.126)			(0.477)			(0.094)
Democrat-Two Panel Dems			0.224*			-0.037			0.124
			(0.107)			(0.433)			(0.080)
Democrat-One Panel Dem			0.043			0.150			-0.025
			(0.120)			(0.446)			(0.091)
Republican-Two Panel Dems			-0.042			0.583			0.180*
			(0.107)			(0.530)			(0.085)
Republican-One Panel Dem			-0.013			0.687*			0.113*
			(0.087)			(0.353)			(0.066)
National Public Mood		-0.018*	-0.015		0.021	0.077*		-0.006	-0.005
		(0.010)	(0.012)		(0.025)	(0.030)		(0.007)	(0.009)
State Murder Rate			-0.002			0.089*			0.006
			(0.009)			(0.041)			(0.006)
State Unemployment			0.038*			0.049			0.015
			(0.014)			(0.071)			(0.012)
Unified Democratic State			0.219*			0.182			0.077
			(0.066)			(0.201)			(0.048)
Unified Republican State			0.135			0.088			-0.013
			(0.093)			(0.259)			(0.064)
President Ideology			-0.082			-0.425*			0.003
			(0.072)			(0.213)			(0.052)
Constant	-1.429*	-0.374	-0.931*	-0.897*	-1.883*	-5.077*	-0.775*	-0.152	-0.480
	(0.138)	(0.409)	(0.521)	(0.471)	(1.056)	(1.361)	(0.104)	(0.296)	(0.375)
N	9519	8973	7712	1000	929	772	17523	16150	13750
Prob $> \chi^2$	72.18*	562.47*	443.71*	9.53*	42.51*	49.64*	122.29*	864.31	677.43*

Note: Table entries are logistic regression estimates with robust standard errors in parentheses. *$p < 0.05$ (one-tailed). The dependent variable represents the ideological direction of individual circuit judge votes. The data reflect a (probability) weighted sample of circuit court cases, 1960-2002, as compiled by the U.S. Appeals Court Database, among three-judge panel decisions (D.C. Circuit excluded).

Table 2: The Impact of State Public Opinion on "Expatriate" Circuit Court Judges — Birth-State vs. Residence-State Mood

	"Expatriate" Judges Birth-State Mood	"Expatriate" Judges Residence- & Birth-State Mood
State Public Mood — Birth State	-0.059*	-0.054*
	(0.029)	(0.033)
State Public Mood — Residence State		-0.009
		(0.025)
Judge Ideology	-2.153*	-2.206*
	(0.597)	(0.624)
Circuit Court Median	-1.380*	-1.380*
	(0.556)	(0.555)
Supreme Court Median	1.601*	1.480*
	(0.773)	(0.850)
U.S. Position	0.662*	0.660*
	(0.156)	(0.157)
Democratic Judge-Three Panel Democrats	0.526	0.494
	(0.476)	(0.484)
Democratic Judge-Two Panel Democrats	0.037	-0.000
	(0.426)	(0.438)
Democratic Judge-One Panel Democrat	0.198	0.163
	(0.434)	(0.449)
Republican Judge-Two Panel Democrats	0.544	0.544
	(0.540)	(0.540)
Republican Judge-One Panel Democrat	0.717*	0.710*
	(0.353)	(0.353)
National Public Mood	0.118*	0.122*
	(0.042)	(0.041)
State Murder Rate (Home State of Judge)	0.088*	0.088*
	(0.041)	(0.041)
State Unemployment (Home State of Judge)	0.064	0.064
	(0.073)	(0.073)
Unified Democratic State (Case Origin)	0.251	0.251
	(0.206)	(0.207)
Unified Republican State (Case Origin)	0.105	0.102
	(0.256)	(0.257)
President Ideology	-0.420*	-0.408*
	(0.210)	(0.213)
Constant	-6.113*	-6.148*
	(1.600)	(1.579)
N	772	772
Prob $> \chi^2$	50.99*	51.44*

Note: Table entries are logistic regression estimates with robust standard errors in parentheses. $^*p < 0.05$ (one-tailed). The dependent variable represents the ideological direction of individual circuit judge votes, among expatriate judges. The data reflect a (probability) weighted sample of circuit court cases, 1960-2002, as compiled by the U.S. Appeals Court Database, among three-judge panel decisions (D.C. Circuit excluded).

3 Native Born & Educated Components

Table 3 reports the regression results when exploring different coding configurations for those judges with substantial ties to their state of residence. Model 1—*Native Born, BA & JD*—reports the results among all judges that were born, live, and received their education (BA & JD) in a single state. Model 2—*Native Born, BA*—reports the results among judges that were born, live, and received their BA (but not JD) in a single state. Model 3—*Native Born, JD*—reports the results among judges that were born, live, and received their JD (but not BA) in a single state. And, Model 4—*Non-Native Born, BA & JD*—reports the results among judges that live in the same state where they received their education (BA & JD), but they were not born in that state. As the results show, the impact of *State Public Mood* is statistically significant only in Model 1, thereby reinforcing the argument that judges with the most extensive ties to a state exhibit meaningful responsiveness to public opinion.

Table 3: The Impact of State Public Opinion on Circuit Court Judges — Native Born & Educated Components

	Native Born BA & JD	Native Born BA	Native Born JD	Non-Native Born BA & JD
State Public Mood	0.022*	0.004	0.002	-0.027
	(0.008)	(0.014)	(0.017)	(0.018)
Judge Ideology	-0.089	-0.716*	-0.783*	-0.248
	(0.128)	(0.241)	(0.394)	(0.296)
Circuit Court Median	-0.262	-0.288	-1.688*	-0.091
	(0.160)	(0.270)	(0.340)	(0.314)
Supreme Court Median	0.476*	0.221	1.390*	-0.919
	(0.250)	(0.509)	(0.654)	(0.575)
U.S. Position	0.987*	1.011*	0.991*	0.925*
	(0.050)	(0.091)	(0.113)	(0.103)
Democratic Judge-Three Panel Democrats	0.365*	-0.045	-0.281	0.455*
	(0.126)	(0.236)	(0.371)	(0.270)
Democratic Judge-Two Panel Democrats	0.224*	-0.093	-0.328	0.187
	(0.107)	(0.217)	(0.308)	(0.251)
Democratic Judge-One Panel Democrat	0.043	-0.276	-0.320	0.013
	(0.120)	(0.240)	(0.326)	(0.284)
Republican Judge-Two Panel Democrats	-0.042	0.181	0.324	0.413*
	(0.107)	(0.255)	(0.229)	(0.211)
Republican Judge-One Panel Democrat	-0.013	0.056	-0.071	0.279
	(0.087)	(0.209)	(0.187)	(0.180)
National Public Mood	-0.015	-0.038*	-0.003	0.026
	(0.012)	(0.020)	(0.025)	(0.027)
State Murder Rate (Home State of Judge)	-0.002	0.029*	-0.013	0.009
	(0.009)	(0.017)	(0.022)	(0.024)
State Unemployment (Home State of Judge)	0.038*	0.003	0.049	0.016
	(0.014)	(0.032)	(0.042)	(0.039)
Unified Democratic State (Case Origin)	0.219*	0.050	0.100	-0.043
	(0.066)	(0.118)	(0.143)	(0.130)
Unified Republican State (Case Origin)	0.135	0.200	-0.444*	-0.176
	(0.093)	(0.165)	(0.209)	(0.179)
President Ideology	-0.082	0.030	0.026	0.000
	(0.072)	(0.133)	(0.164)	(0.155)
Constant	-0.931*	1.565	-0.285	-1.160
	(0.521)	(0.981)	(1.173)	(1.151)
N	7712	2465	1538	1929
Prob $> \chi^2$	443.71*	145.98*	128.14*	93.89*

Note: Table entries are logistic regression estimates with robust standard errors in parentheses. $^*p < 0.05$ (one-tailed). The dependent variable represents the ideological direction of individual circuit judge votes. The data reflect a (probability) weighted sample of circuit court cases, 1960-2002, as compiled by the U.S. Appeals Court Database, among three-judge panel decisions (D.C. Circuit excluded).

4 Judge Random & Fixed Effects

Table 4 reports the regression results when specifying random intercepts or fixed effects to account for differences across circuit judges. Among the random-effects logistic regressions, Model 1 reports the baseline interactive effect between *State Public Mood* and *Native Born & Educated* without control predictors and Model 2 reports the regression results with the full complement of controls. The conditional fixed-effects models include only native born judges (since a judge's identification as native born does not vary over time).[3] Importantly, the results of this robustness check confirm the substantive inferences made in the manuscript regarding the impact of state mood on native born circuit judges.

[3]The model also excludes the predictor for *Judge Ideology* since the measure does not vary over time within-judge.

Table 4: The Impact of State Public Opinion on Native Born Circuit Court Judges — Judge Random/Fixed Effects

	Judge Random Intercepts *All Judges*		Judge Fixed Effects *Native Born Judges Only*	
	(1)	(2)	(1)	(2)
State Public Mood	0.005*	0.007	0.007*	0.020*
	(0.002)	(0.005)	(0.004)	(0.009)
Native Born & Educated	-0.527*	-0.542*	—	—
	(0.194)	(0.222)		
State Mood X Native Born	0.011*	0.011*	—	—
	(0.004)	(0.005)		
Judge Ideology		-0.351*		—
		(0.097)		
Circuit Court Median		-0.270*		0.091
		(0.089)		(0.181)
Supreme Court Median		0.420*		0.474*
		(0.134)		(0.239)
U.S. Position		0.911*		0.961*
		(0.025)		(0.043)
Democratic Judge-Three Panel Democrats		0.216*		0.166
		(0.078)		(1.788)
Democratic Judge-Two Panel Democrats		0.140*		0.052
		(0.071)		(1.787)
Democratic Judge-One Panel Democrat		0.056		-0.067
		(0.078)		(1.787)
Republican Judge-Two Panel Democrats		0.070		-0.073
		(0.060)		(0.105)
Republican Judge-One Panel Democrat		0.061		-0.040
		(0.048)		(0.084)
National Public Mood		-0.011*		-0.023*
		(0.006)		(0.013)
State Murder Rate (Home State of Judge)		0.005		0.003
		(0.006)		(0.018)
State Unemployment (Home State of Judge)		0.013		0.016
		(0.009)		(0.017)
Unified Democratic State (Case Origin)		0.033		0.095
		(0.035)		(0.064)
Unified Republican State (Case Origin)		0.049		0.050
		(0.047)		(0.086)
President Ideology		-0.016		-0.059
		(0.037)		(0.067)
Constant	-0.694*	-0.253	—	—
	(0.111)	(0.295)		
Number of Votes	28357	22234	9606	7782
Number of Judges	406	381	127	125
LR-test, $\rho = 0$	245.76*	97.50*	—	—
Prob $> \chi^2$	23.79*	1369.49*	2.95*	564.56*

Note: Table entries are random-effects, or conditional fixed-effects, logistic regression estimates with standard errors in parentheses. $*p < 0.05$ (one-tailed). The dependent variable represents the ideological direction of individual circuit judge votes. The data reflect an unweighted sample of circuit court cases, 1960-2002, as compiled by the U.S. Appeals Court Database, among three-judge panel decisions (D.C. Circuit excluded). The fixed effects models include only native born judges.

5 Appeal Quality & Threshold Issues

We consider the robustness of our results to the presence (or absence) of "weak" cases with threshold issues. As Hall, Kirkland and Windett (2015) argue, circuit judges seemingly rule counter to national public opinion because litigants increasingly pursue what amount to lower quality suits. Thus, according to this argument, there is a negative relationship between circuit judges' voting and national public opinion that is driven by docket composition and the presence of "weak" appeals. We adopt the Hall, Kirkland and Windett (2015) indicator of "weak" cases—i.e., a dummy indicator where a 1 signifies a case that involves a "threshold issue," as indicated by the U.S. Appeals Court Database—and evaluate the robustness of our results when removing these cases. Table 5 presents the results after removing those "weak" cases where a threshold issue is present. Importantly, the results of this robustness check confirm the substantive inferences made in the manuscript regarding the impact of state mood on native born circuit judges.

Table 5: The Impact of State Public Opinion on Native Born Circuit Court Judges — Among Cases Without a Threshold Issue

	(1)	(2)
State Public Mood	0.009*	0.005
	(0.002)	(0.005)
Native Born & Educated	-0.612*	-0.579*
	(0.182)	(0.236)
State Mood X Native Born	0.013*	0.012*
	(0.004)	(0.005)
Judge Ideology		-0.367*
		(0.085)
Circuit Court Median		-0.478*
		(0.098)
Supreme Court Median		0.482*
		(0.164)
U.S. Position		0.930*
		(0.031)
Democratic Judge-Three Panel Democrats		0.264*
		(0.081)
Democratic Judge-Two Panel Democrats		0.194*
		(0.069)
Democratic Judge-One Panel Democrat		0.045
		(0.078)
Republican Judge-Two Panel Democrats		0.171*
		(0.072)
Republican Judge-One Panel Democrat		0.123*
		(0.057)
National Public Mood		-0.008
		(0.007)
State Murder Rate (Home State of Judge)		0.010*
		(0.005)
State Unemployment (Home State of Judge)		0.023*
		(0.010)
Unified Democratic State (Case Origin)		0.127*
		(0.041)
Unified Republican State (Case Origin)		0.039
		(0.057)
President Ideology		-0.041
		(0.045)
Constant	-0.875*	-0.542
	(0.108)	(0.332)
N	24245	18779
Prob $> \chi^2$	61.21*	1022.33*

Note: Table entries are logistic regression estimates with robust standard errors in parentheses. $^*p < 0.05$ (one-tailed). The dependent variable represents the ideological direction of individual circuit judge votes. The data reflect a (probability) weighted sample of circuit court cases, 1960-2002, as compiled by the U.S. Appeals Court Database, among three-judge panel decisions (D.C. Circuit excluded).

6 Career Tenure Analysis

Table 6 reports the regression results used to generate the substantive effects when evaluating if the impact of *State Public Mood* is conditional on a judge's career stage and tenure (i.e., *Years of Service*). Model 1 reports the baseline interactive effect between *State Public Mood* and *Years of Service* without control predictors. Model 2 reports the regression results with the full complement of controls.

Table 6: The Impact of State Public Opinion Conditional on Judges' Years of Service

	(1)	(2)
State Public Mood	0.011*	0.010*
	(0.003)	(0.005)
Years of Service	-0.011	0.007
	(0.799)	(0.014)
State Mood X Years of Service	0.000	-0.000
	(0.000)	(0.000)
Judge Ideology		-0.307*
		(0.077)
Circuit Court Median		-0.455*
		(0.090)
Supreme Court Median		0.357*
		(0.151)
U.S. Position		0.919*
		(0.029)
Democratic Judge-Three Panel Democrats		0.272*
		(0.074)
Democratic Judge-Two Panel Democrats		0.173*
		(0.063)
Democratic Judge-One Panel Democrat		0.039
		(0.070)
Republican Judge-Two Panel Democrats		0.119*
		(0.066)
Republican Judge-One Panel Democrat		0.093*
		(0.052)
National Public Mood		-0.004
		(0.007)
State Murder Rate (Home State of Judge)		0.004
		(0.005)
State Unemployment (Home State of Judge)		0.028*
		(0.009)
Unified Democratic State (Case Origin)		0.127*
		(0.038)
Unified Republican State (Case Origin)		0.055
		(0.051)
President Ideology		-0.044
		(0.041)
Constant	-1.011*	-0.971*
	(0.139)	(0.325)
N	28355	22233
Prob $> \chi^2$	60.92*	1118.83*

Note: Table entries are logistic regression estimates with robust standard errors in parentheses. *$p < 0.05$ (one-tailed). The dependent variable represents the ideological direction of individual circuit judge votes. The data reflect a (probability) weighted sample of circuit court cases, 1960-2002, as compiled by the U.S. Appeals Court Database, among three-judge panel decisions (D.C. Circuit excluded).

7 Institutional Support Analysis

We show in the manuscript that the impact of *State Public Mood* does not meaningfully vary based on either the degree of public support for the Supreme Court (Durr, Martin and Wolbrecht 2000) or congressional approval (Durr, Gilmour and Wolbrecht 1997) (after interacting each institutional support measure with *State Public Mood*). Table 7 reports the full regression results of these analyses.

Table 7: The Impact of State Public Opinion Conditional on Institutional Support

	(1)	(2)
State Public Mood	-0.128	-0.092
	(0.090)	(0.062)
Supreme Court Support	-0.061	
	(0.041)	
State Mood X Court Support	0.001	
	(0.001)	
Congressional Approval		-0.059
		(0.041)
State Mood X Congressional Approval		-0.002
		(0.001)
Judge Ideology	-0.478*	-0.473*
	(0.108)	(0.108)
Circuit Court Median	-0.311*	-0.306*
	(0.149)	(0.151)
Supreme Court Median	-0.010	-0.820
	(0.501)	(0.641)
U.S. Position	0.928*	0.928*
	(0.038)	(0.038)
Democratic Judge-Three Panel Democrats	0.197*	0.198*
	(0.099)	(0.099)
Democratic Judge-Two Panel Democrats	0.056	0.053
	(0.085)	(0.085)
Democratic Judge-One Panel Democrat	-0.095	-0.094
	(0.097)	(0.097)
Republican Judge-Two Panel Democrats	0.084	0.077
	(0.089)	(0.089)
Republican Judge-One Panel Democrat	0.036	0.034
	(0.069)	(0.069)
National Public Mood	-0.010	0.006
	(0.016)	(0.019)
State Murder Rate (Home State of Judge)	-0.010	0.010
	(0.007)	(0.007)
State Unemployment (Home State of Judge)	-0.008	-0.003
	(0.012)	(0.013)
Unified Democratic State (Case Origin)	0.074	0.076
	(0.049)	(0.049)
Unified Republican State (Case Origin)	-0.117	-0.129
	(0.096)	(0.096)
President Ideology	0.012	-0.054
	(0.073)	(0.086)
Constant	5.670	2.832
	(4.004)	(2.813)
N	11662	11662
Prob $> \chi^2$	684.92*	685.33*

Note: Table entries are logistic regression estimates with robust standard errors in parentheses. $^*p < 0.05$ (one-tailed). The dependent variable represents the ideological direction of individual circuit judge votes. The data reflect a (probability) weighted sample of circuit court cases, 1960-2002, as compiled by the U.S. Appeals Court Database, among three-judge panel decisions (D.C. Circuit excluded).

8 Scandals Analysis

As we stated in the manuscript, scandals and controversies may help us to leverage whether judges vote with state public opinion for reputational reasons or for institutional support. Voting in line with the public could keep the court in the public's good graces in times of trouble. If, however, circuit judges vote in line with public opinion for other reasons, public opinion will not have a greater effect in the wake of a national scandal. We examined circuit judge behavior before and after Watergate, the Iran-Contra affair, President Clinton's admission about his affair and perjury relating to the Lewinsky affair, the Abe Fortas resignation from the U.S. Supreme Court, and the Supreme Court's decision in *Bush v. Gore* (2000). For each test, we examined the discrete change in the voting behavior of circuit judges during the three years prior to the scandal compared to the year after the scandal. We isolated the circuit cases during the specified time period, created a dummy indicator for decisions rendered before vs. after the scandal or controversy, and then interacted the scandal dummy predictor with *State Public Mood* in a regression model with our control variables.[4]

Figure 2 displays, for each individual scandal or controversy, the average marginal effect on the probability a circuit judge votes liberally from the pre- to post-scandal time period across the observed range of *State Public Mood*. If concern for institutional support drove responsiveness to state public opinion, we would expect to find a heightened effect of state mood after the scandal. That is, the slope of the line would be positive—the marginal effect of each scandal or controversy should be negative among judges residing in conservative

[4]The cutpoint for Watergate was August 8, 1974—the day President Nixon resigned. For the Iran-Contra affair, we chose March 4, 1987—the day President Reagan addressed the nation. For the Lewinsky affair, we chose August 17, 1998—the day the president admitted in a televised address to having an improper relationship with Ms. Lewinsky. Lastly, the Fortas resignation came down on May 14, 1969 and the Court announced its decision in *Bush v. Gore* (2000) on December 12, 2000.

states and positive among judges residing in liberal states.

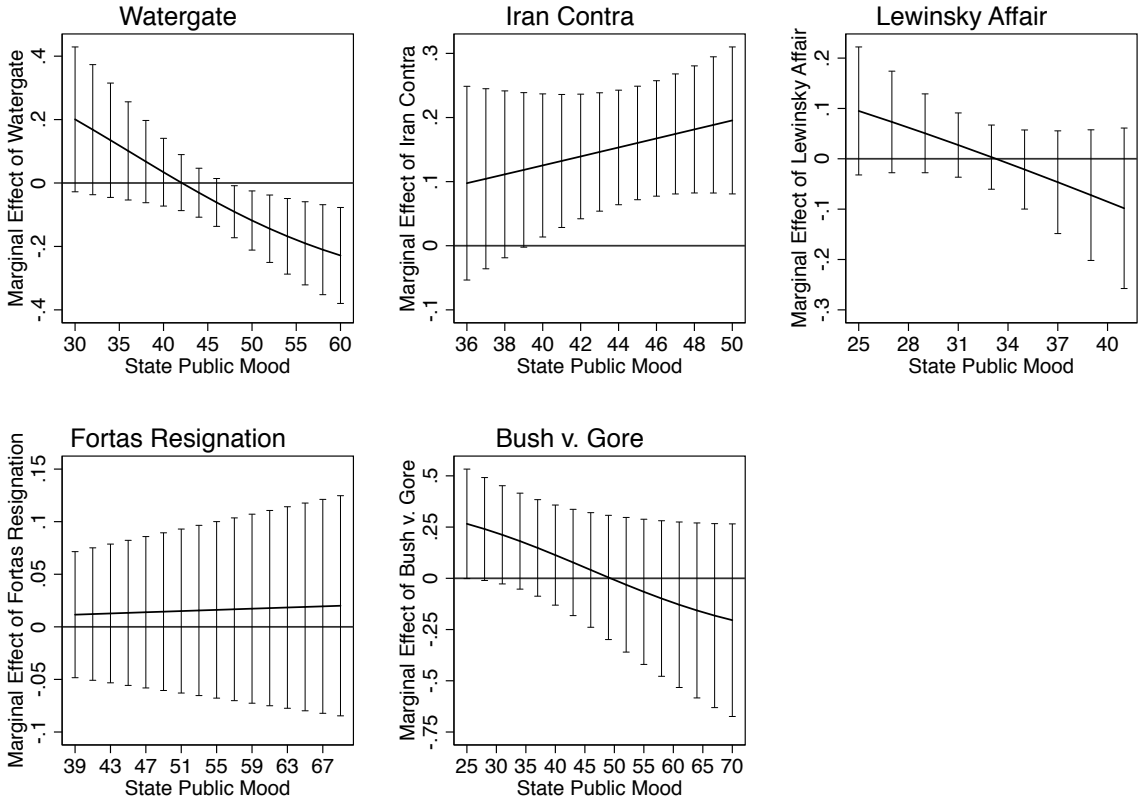

Figure 2: *The Impact of State Public Opinion in the Aftermath of Political Scandals and Controversies Among Native Born Judges*. Estimates represent the average marginal effects of the discrete change in pre- vs. post-scandal across the range of *State Public Mood* (with 90% confidence intervals).

We do not observe clear evidence of this effect. Consider Watergate. As Figure 2 shows, circuit judges living in conservative states actually become somewhat (though not significantly) more likely to cast liberal votes after Watergate, while judges residing in liberal states became *less* likely to vote liberally. We see a similar pattern associated with the Lewinsky affair and *Bush v. Gore*. The results associated with Iran Contra suggest that native born judges from moderately conservative and moderate states were more likely to vote liberally. Judges from conservative states were not more likely to vote conservatively. And, the aftermath of the Fortas resignation from the Supreme Court exhibits no statistically or substantively meaningful effect on native born judges at all. In short, the evidence of

state mood's impact on native born judges outlined above does not seem to be driven by responsiveness to scandals.

To examine the robustness of the scandals analysis, we report three alternative analyses with different temporal specifications of pre- vs. post-scandal observations. Figure 3 reports the results when including the three years prior to the scandal compared to two years after the scandal. Figure 4 reports the results when including the three years prior to the scandal compared to three years after the scandal.[5] Lastly, Figure 5 reports the results when including the five years prior to the scandal compared to three years after the scandal. These alternative analyses continue to support our conclusion that potential responsiveness to scandals and political controversies *is not* driving the relationship between *State Public Mood* and circuit judges' voting behavior. Only the Iran Contra Affair exhibits any degree of evidence of a statistically significant effect—but even that is not really in the expected direction. Judges from conservative and moderately conservative states appeared to be more likely to issue liberal votes in the scandal's aftermath. What is more, no other scandal or political controversy yields any evidence consistent with this effect.

[5]We leave out the analysis of *Bush v. Gore* here since our full data end in 2002.

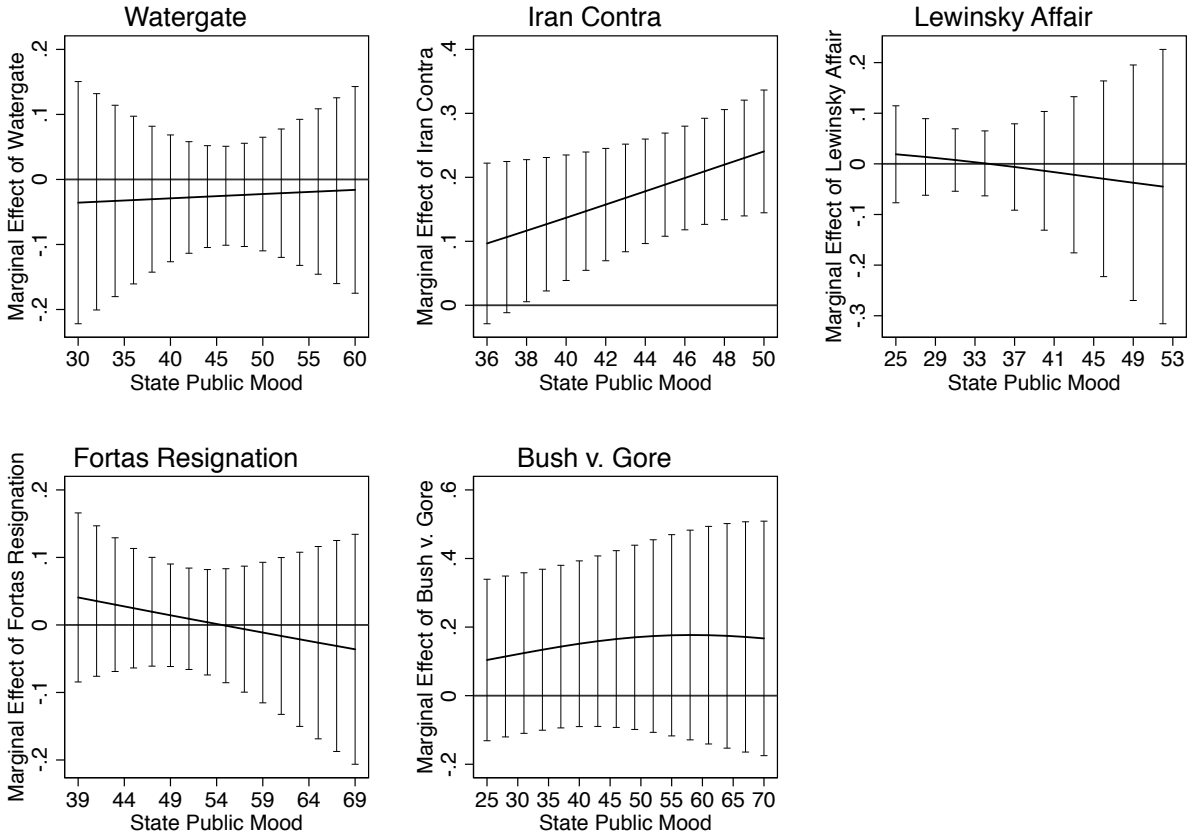

Figure 3: *The Impact of State Public Mood in the Aftermath of Political Scandals Among Native Born Judges — Three Years Pre- and Two Years Post-Scandal.* Estimates represent the average marginal effects of the discrete change in pre- vs. post-scandal across the range of *State Public Mood* (with 90% confidence intervals).

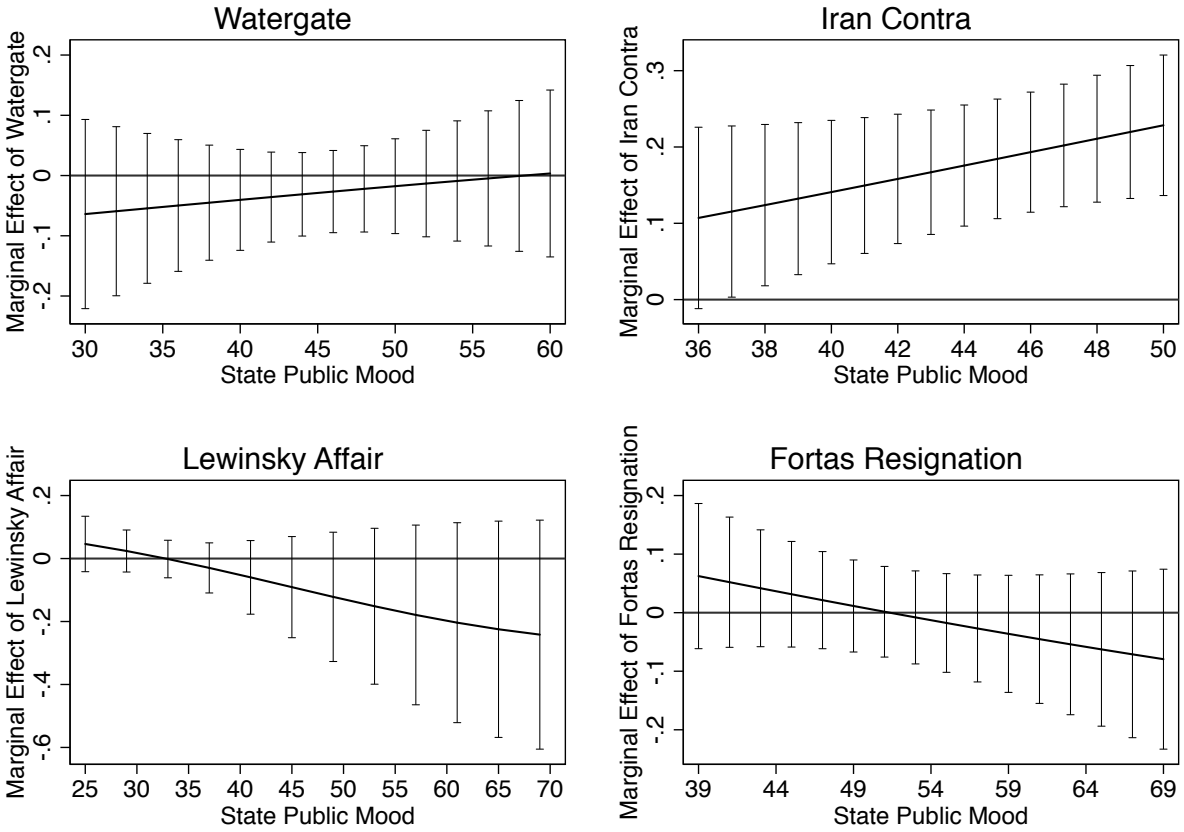

Figure 4: *The Impact of State Public Mood in the Aftermath of Political Scandals Among Native Born Judges — Three Years Pre- and Three Years Post-Scandal.* Estimates represent the average marginal effects of the discrete change in pre- vs. post-scandal across the range of *State Public Mood* (with 90% confidence intervals).

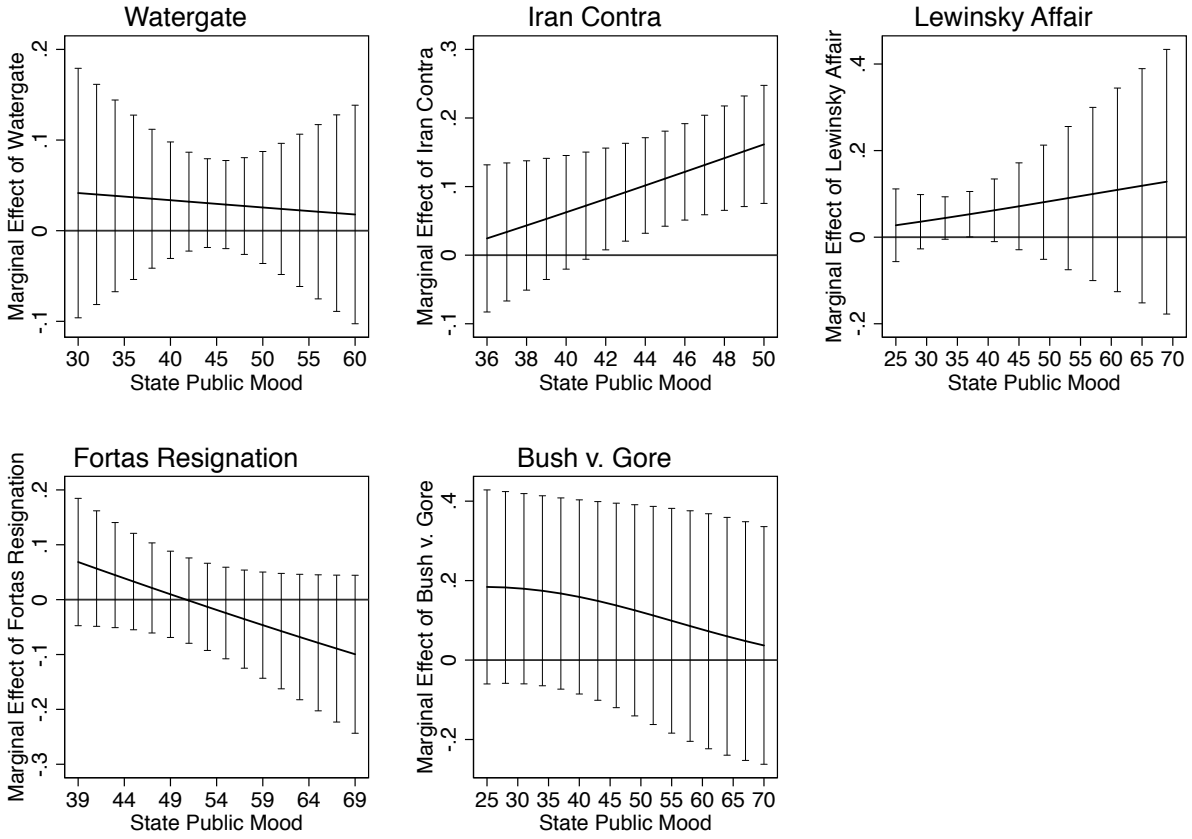

Figure 5: *The Impact of State Public Mood in the Aftermath of Political Scandals Among Native Born Judges — Five Years Pre- and Three Years Post-Scandal.* Estimates represent the average marginal effects of the discrete change in pre- vs. post-scandal across the range of *State Public Mood* (with 90% confidence intervals). The estimates associated with *Bush v. Gore* only reflect two years of post-scandal observations (since the data end in 2002).

9 References

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