CAMPAIGN CONTRIBUTIONS, ATTORNEY CHARACTERISTICS, AND JUDICIAL DECISIONS: A STUDY OF THE GEORGIA AND ILLINOIS STATE SUPREME COURTS

By

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(Under the Direction of Teena Wilhelm)

ABSTRACT

The growth of campaign contributions in state supreme courts has caused researchers to investigate the relationship between the contributions and justices' decisions on the merit. While past research has concentrated solely on campaign contributions, this paper considers social networking theory, and takes into account the possibility of attorney characteristics having an effect on judicial decisions. Through a logit analysis of Georgia and Illinois State Supreme Court decisions in 2003, this paper reveals mixed support for the effect of campaign contributions, and little support for the effect of attorney characteristics on judicial decisions.

INDEX WORDS: State Supreme Courts, Judicial Elections, Campaign Contributions, Social Networking Theory, Attorney Characteristics

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Chapter 1: Introduction

While many can name the justices of the United States Supreme Court, the justices on the American state supreme courts are more obscure. Still, these positions are highly sought after with incumbents and challengers willing to spend exorbitant amounts of money in judicial elections. In fact, candidates in 2005-2006 state supreme court elections raised over $34 million. In 5 of the 10 states with privately funded campaigns, new state records for candidate spending were reached (Streb 2007). For scholars of the judicial branch, the question is whether these record sums represent a problem of politicization within the judicial branch. In fact, media, the public, and the justices themselves all have made claim that campaign contributions cause judges to become partial and biased on the bench (McCall 2001). Similarly, leading scholars claim these elections are "impairing the position of the judge as an impartial and objective decision maker" (Dubois 1980, 21). A sign that this issue has reached a boiling point is evidenced in the upcoming U.S. Supreme Court case *Caperton v. Massey.* Recently argued in March of 2009, the case has to do with a controversy regarding $3 million worth of campaign contributions given by the CEO of A.T. Massey Coal towards the election of a West Virginia State Supreme Court Justice. The same justice later cast a crucial vote that overturned a $50 million fraud lawsuit in Massey's favor (Biskupic 2009). The buzz surrounding this case includes speculation by former justice Sandra Day O'Connor that, "[t]he basic precept of equal justice under the law requires that neither side of the dispute has an unfair advantage. I think you

might be concerned if you were in court litigating some issue in front of a judge who has been given a bunch of money by your opponent" (Farquhar 2009, 1).

While speculation may continue in light of scenarios such as these, it remains an important empirical question whether campaign contributions sway decisions. Empirical analysis has attempted to answer this question, but certain factors remain untested. Specifically, campaign contributions made by an attorney may have less influence on judicial decisions when attorney characteristics are added to the equation. In this thesis, I propose to test this notion. I examine both the Georgia and Illinois State Supreme Courts, to offer comparative assessment. In the end, this research will assess the extent to which attorney characteristics, in addition to campaign expenditures, matter in judicial decisions.

I begin by viewing the relevant research pertaining to state supreme court elections and campaign contributions. I examine not only the research that follows the path of dollars to decisions, but also that which investigates the nature of contributions themselves. I then develop a theory regarding why attorney characteristics matter. Following this I briefly detail the Georgia and Illinois State Supreme Courts, then turn to the data and analyses. Lastly, I discuss the results of my statistical model and what they might mean for the future of reform plans for state supreme court elections.

Chapter 2: Literature Review

Elections for courts of last resort in the American states were not created with the birth of the nation. In fact the first state to adopt judicial elections was Mississippi in 1832. Currently, 39 states today have some form of judicial elections (Streb 2007). Many scholars claim that judicial elections, which historically were characterized as quiet and unchallenged races, all changed in 1978 when deputy district attorneys, unhappy with current trial court judges, advertised for challengers in the newspapers (Schotland 2005). Whether this is true or not, shortly after this incident judicial elections all around the country seemed to change. For example, it now costs 320 percent more to run for a seat on the Montana Supreme Court today then it did in 1990. In Los Angeles County, it is now 22 times more expensive than in 1976 (McCall 2001). As a consequence of this change, judicial candidates' campaign chests in 2000 reached $45.6 million. This is an average of nearly $1 million per seat. Some states have seen even higher spending, as an Ohio incumbent spent $1.9 million in 2002 (Schotland 2005). One study found that the cost of winning an election jumped 40 percent between 2002 and 2004 (Goldberg 2004). In addition to increased costs, it is also now common for campaigns to have television advertisements, which may be very negative. Over 9,000 attack ads aired in the 2004 state supreme court elections (Goldberg 2004). It is clear that since 1978, judicial elections have changed both in nature and scope.

Schotland (1985) was one of the first to investigate judicial campaigns as they began to change. He found that campaigns were becoming more expensive, that the sources of these

contributions may be considered troublesome, and that the behavior of the judges were changing, both in elections and outside of them. Many candidates received large amounts of money from lawyers, doctors' political action committees (PACs), and lawsuit-prone businessmen. Judges were seen in public more often than in the past, engaged in fund raising, and hired political consultants more frequently and earlier. Schotland asserted that things had gone so far that further study into whether or not these contributions were effecting the judges' decisions on the merit was needed. Even though Schotland's study was done over twenty years ago, these suggestions and calls for reform are still relevant.

Schotland was not the only researcher to find that campaign contributions were coming from sources frequently present in front of the courts. Jackson and Riddlesperger Jr.'s 1988 study of the election of the chief justice of the Texas Supreme Court found that, from questionnaires given to judicial campaign contributors, 66.1 percent were attorneys and 9.6 percent were physicians. They also found, interestingly, contributors expected nothing in return for themselves. Alternatively, when asked what other contributors might expect, many answered the purchase of decisions.

Bonneau (2005) went further to determine why judges might need more money. He investigated 281 state supreme court races in 21 different states from 1990 to 2000. He found that while all states saw an increase in spending in judicial campaigns, this increase was not uniform. The characteristics of the race, such as institutional arrangements, electoral characteristics, and the state supreme court context were very influential in determining how much money was spent in those races. Open-seat races were more expensive. He also found that higher spending was associated with longer-term lengths and less seat availability on the bench (Bonneau 2005).

Hall and Bonneau (2006), studied the effects of quality challengers on incumbents running for reelection, assessed the importance of money in these races. They found that when an incumbent increases their spending by 1 percent over the challenger; their vote share increased about 1.6 percent. Cheek and Champagne (2005) studied the Texas courts and discovered that money, more so than party identification and incumbency, is the main determinate of electoral success for a judicial candidate. This has major implications for the incumbency advantage of judges increasing with higher amounts of spending on campaigns. Between 1980 and 1995 state supreme court justices who ran for reelection won 92 percent of the time (Baum 2003).

While these studies do not investigate the actual trail of dollars on the state supreme courts, their findings do contribute to why campaign contributions may effect judicial decisions and in what circumstances they may have more influence.

A small number of studies examine the link between campaign contributions and judicial decisions. Ware (1999) examined 69 arbitration cases on the Alabama State Supreme Court, and demonstrated a strong correlation between decisions and campaign contributions. Only one judge did not align his decisions with those that contributed to him. Similarly, Waltenburg and Lopeman (2000) studied tort cases on three different state supreme courts. They also found a strong relationship between campaign contributions and decisions. They even found that when a case was heard a year before an election, campaign contributions mattered more. This is similar to Huber and Gordon's (2004) work on justices' behavior, in which they found justices, before elections, will align decisions with the ideology of their constituents. Although these studies did find strong correlation, they did not prove actual causation.

A few studies, however, proved causation. Due to the very conservative nature of the Texas Supreme Court, McCall (2003) was able to do this through the counterintuitive nature of liberal decisions, which were supported by liberal donations. She examined disputes between business litigants from 1994 to 1997. She controlled for which side of the case contributed the most money to each judge, including the litigants, their attorneys, and amicus brief participants. However she only controlled for who gave the most as opposed to controlling for actual dollar amounts of each side. Another major limitation of McCall's research design was that its commentary was only on liberal donations. For conservative decisions, she could only claim a correlation. Cann's 2002 investigation of the Wisconsin Supreme Court found no correlation between contributions and judicial decisions. He did find, however, that Wisconsin has a number of institutional factors that may shield it from such a relationship. These include partial public funding, nonpartisan elections, and campaign contribution finance. On the other hand, when Cann (2007) examined the Georgia Supreme Court he found a significant relationship between donations and decisions for both liberal and conservative donations. He was able to control for the individual dollar amount of each side's attorney and by doing so, demonstrated the extent to which one side must outspend the other in order to recieve a favorable decision.

A 2008 study of a 15-year period on the Louisiana Supreme Court, by Palmer and Levindis (2008), also finds a major influence of campaign contributions on judicial decisions. Using logistical regression, they singled out three justices, who when receiving a greater amount of money on one side of the case, almost always voted in favor of that same side. This relationship existed regardless of the justices' political leaning or the conservative or liberal

nature of the case. The authors also found this relationship to be stronger in two types of cases, tort and constitutional law.[1]

In the most recent research on campaign contribution, Bonneau and Cann (2008) examined the Nevada, Texas, and Michigan State Supreme Courts. Although the authors did not find a connection between contributions and votes in Nevada, they were able to find a connection in Texas and Michigan. The authors noted that the differences of the courts were most likely the source of this discrepancy. The Nevada State Supreme Court's justices are elected by a nonpartisan ballot and the court often decides its cases in a 3-judge panel as opposed to the typical style of most state supreme courts, *en banc.* Texas and Michigan both have partisan ballots. The authors found that when one side of the case contributed $2,000 more than another side, they can virtually guarantee a win for themselves. Through use of instrumental variables probit techniques, Bonneau and Cann believe that they are able to avoid the problem of endogeneity that plagues research utilizing simple probit models.

Although the body of literature exists, the campaign contributions literature has a long way to go before being thorough and able to draw some well-founded conclusions. To begin with, not all states have been examined nor have all levels of state courts. As researchers have found in past studies that institutional factors of the court effect the amount of money being raised in elections, future research may also find that certain court and election characteristics cause campaign contributions to matter in different ways. Multiple year analyses are also needed, to determine whether or not time has changed the relationship between campaign contributions

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[1] After the article was published, it came to light that errors occurred in the coding of the data. Some controversy surrounding this error caused the law school to issue a public apology and the dean to resign. The authors claim that though there was error, it was unbiased and did not change the results. They plan to publish the corrected work in the future (Finch 2008, Pope 2008).

and judicial decisions, especially as judicial elections become increasingly more expensive and justices become more entrenched and secure in their positions. An important detail within the research is the type of analysis being used (Cann 2007, Bonneau and Cann 2008). Whether simple probit models are sufficient to get around the endogeneity problem of whether contributions follow decisions or decisions follow contributions needs to be investigated further. Future research may find that when employing different methods, such as the two-squared least squares technique, results differ. Another possibility is to examine similar types of cases together. It may be that certain types of cases lend themselves to be influenced by different factors to different degrees. Finally, researchers have not examined whether attorney characteristics, beyond judicial contributions, affect decisions. I propose to examine a specific set of variables, attorney team characteristics, to add to the literature on campaign contributions.

Chapter 3: Theoretical Framework

Justices come to different conclusions in light of the facts of the case. They may also reach the same decision, but with different rationale. Because of this, scholars assume that different factors drive decisionmaking. What is most important to consider is that as justices reach a decision, they are knowledgeable about much more than just the facts of the case. They also know the litigants, attorneys, and special interests groups that are involved. The justices may have interacted with these parties both outside and inside the court. Given this, I argue that campaign contribution research may be leaving out a major aspect of judicial decisionmaking. I believe that campaign contributions may represent a tie between the justice and the attorney (or in a case where more than one attorney is involved, the team of attorneys). However, although campaign contributions are a theoretically compelling influence on the justices, they may not be the only factor that facilitates a connection between a justice and attorney. Extant research has not given attention to the possibility that other attorney characteristics, such as social networking may also influence decisions of the justices.

Limited research exists on the subject of social networking theory. It describes social environments "as patterns or regularities in relationships among interacting units" (Wasserman 1994, 1). Social relationships, whether it be on a small scale such as between individuals or on a larger scale such as between nations, can be described as nodes, the individual players within the network, and the ties in the relationship that link them. Those ties can exist on many different levels, and these connections can determine how two nodes work with and react towards each

other (Wasserman 1994). Using this theory, scholars have painted a clear picture of the role of attorneys within the power structure of Washington, D.C. politics (Nelson et al. 1987). Heinz and Laumann (1982) created an extensive study of the social structure of the Chicago bar via these same ideas. McGuire (1993) used social networking theory to determine the patterns of association among the attorneys in Washington, D.C. He broke his model into two distinctive subgroups, a shared social characteristics model and a personal attributes model. The shared social characteristics model posits that more shared background characteristics create more chances for an interpersonal relationship to form (Laumann 1973). The personal attributes model, on the other hand, maintains that personal characteristics of an individual will be noticed by others and regarded highly (Gibbs 1969). These personal characteristics will facilitate relationships instead.

I believe that the social networking theory has implications for relations between attorneys and justices within the same bar, as opposed to just attorneys in the same bar. There is logic for this. Almost all justices are also former attorneys that practiced in the same area. They are members of the bar in which the attorneys who appear before them also belong. It stands to reason that just because they sit on the other side of the courtroom does not cause disassociation from the attorneys.

I argue that, in addition to campaign contributions, there are attorney qualities that fall under the social characteristics and personal attributes models that connect the justices with the attorneys who argue before them. Further, some of these qualities may in fact sway them to decide in favor of these attorneys who posses similar qualities. Obviously these characteristics are not the only things that sway justices. However, it may be that in some unclear cases, when both sides of the case have compelling arguments, these characteristics may cause the justices to

feel an affinity towards one side and cause them to agree with their argument. I develop a model to assess the impact of these relationships and to ascertain the effect of the social network. Specifically, I try to predict whether or not a justice will vote in favor of an attorney team, one side of the case. I do this through controlling for two sets of variables, the social networking variables, which can be viewed as shared social characteristics and personal attributes, and campaign contributions.

Attorney Team Characteristics*: *Shared Social Characteristics

Past research demonstrates that attorneys recognize other attorneys who practice in a shared geographic area (Carlin 1967, Heinz and Laumann 1982, McGuire 1993). Although a city can be large and obviously everyone does not know everyone as some may in a small town, attorneys are likely to work with other attorneys in many situations. They are also likely to mingle in both a professional and social manner (McGuire 1993). The idea that limited distances between two nodes creates bonds does not just apply to attorney relations. A similar linkage has been found between seatmates within legislatures (Caldeira and Patterson 1987), as well as between courts of close proximity (Caldeira 1985). Therefore, I expect that geographic proximity between justices and attorneys will influence voting similarly. I expect that attorneys or attorney teams from the same city that the individual justices live in, *ceteris paribus,* will have a higher likelihood of receiving judicial votes in their favor by the justices.

Social networking theory relies on common bonds. Past research has found that educational background is one of the most common bonds found in elite communities (Mills 1970). McGuire (1993) posited that attorneys who attended the same law school would have a bond that could “manifest itself in varying degrees through out their career” (373). He claimed that law school ties are particularly important, causing attorneys to be aware of their classmates

from their *alma mater*. I extend that same argument to attorney justice relations. Therefore I expect if an attorney team has a member who went to the same law school as the justice, the likelihood of receiving a vote in their favor by that justice increases.

The year that an attorney joined a bar is the year in which they started practicing in that area. Comparison of the years that two different attorneys joined the bar may reveal a "generational" difference between the two attorneys. What would this "generational" difference mean? Shorter generational differences between bar memberships may mean that two individuals are more likely to be in similar places within their careers, have gone through similar experiences, and subsequently had more chances to interact. While this has not been tested by past research I believe that this could theoretically influence attorney justice relations. Therefore I believe that the smaller the generational difference between the attorney and justice will be associated with an increased likelihood of a vote in their favor by the justice.

Attorney Team Characteristics*: *Personal/Team Attributes

The personal or team attributes of the attorney teams are characteristics that the justices can notice and may be influenced by. Being a repeat player falls under this category and is not new in court literature. Galanter (1974) advanced the notion of "repeat players," or attorneys who frequently litigate before the courts. They have more experience than an attorney who has never been in front of the court. A state government could be considered as such because they consistently argue cases in front of state supreme courts. Songer and Sheehan (1992) argue that the state can "incur expenses of extensive discovery, expert witnesses and so forth, which may increase the chances of success at trial" (235). I expect that if the state is the other party, then the likelihood of getting a vote in their favor from the justices will decrease. Conversely, if the state

is the party being represented by a team of attorneys, I expect the likelihood of receiving a vote in their favor from the justices increases.

An attorney general may also meet the expectations of a repeat player. There are several reasons why an elected attorney general who is a member of an attorney team might make a difference in terms of judicial decisions. The first is a repeat player influence. The advantages one gains through consistent practice and familiarity with the court's procedures as well as exposure to the decisionmaking pattern of the sitting justices can create an advantage for that person (Bright 1984,1991, Haire et al. 1999). Additionally, the Attorney General is able to choose the cases in which he/she wants to participate. This may be the ones that he/she finds most important or are most likely to win (Mnookin and Kornhauser 1979). While McGuire (1993) found that many who highly regard the office of the Solicitor General in the Washington community are unaware of the person in the office, this would not pose a problem in the states. Attorney Generals are elected officials in Georgia and Illinois. We can assume if the Attorney General is a member of a team of attorneys, a justice is very likely to notice. Therefore if the Attorney General is present on a team of attorneys this will be associated with an increased likelihood of receiving a vote in their favor by the justices.

Szmer et al. (2007) found in their study of attorney influence in the Supreme Court of Canada that the size of an attorney team mattered. They argued that more attorneys on a team created more opportunities to practice oral arguments, raised the likelihood of a better counter argument, and increased the total man hours spent on the case. Given this, I expect that the bigger teams will be associated with an increased likelihood of receiving a vote in their favor by the justices.

Campaign Contributions

Contributions are measured as the aggregate amount contributed by each attorney, their firm, or a spouse or parent on the attorney team. I did not take the highest contribution to represent the group, nor did I average the total for the team. If more than one attorney represents a side, whether they deliver the oral arguments or not, they are present during the court process. Their names are on the brief, and most likely they are present when the case is argued. The justices therefore are exposed to them. I argue that if they gave money to a justice, that justice has in some way reached out to acknowledge that contribution in the past. If a judge faces three attorneys on one side, in which two may have contributed, he is likely not ignoring the smaller contribution or averaging the contributions among them. I believe that the most probable response by a justice is to acknowledge all campaign contributions from that side of the case. I posit that the larger this amount is, the more likely a justice will be to vote in favor of this team, as other research has shown (Bonneau and Cann 2008, Cann 2007, McCall 2003). So I expect that as the amount of contributions increases, the likelihood of a decision in their favor also increases.

As my dependent variable measures the vote for or against an attorney or attorney team, I also consider contributions made by the opposing side of the case. Specifically, I consider the ratio of attorney contributions for both sides. Greater numbers indicate that the attorney or attorney team being observed gave more than the other side's attorney or attorney team. Numbers under 1 indicate that the attorney or attorney team being observed gave less than the other side's attorney or attorney team. I expect that, *ceteris paribus*, as the ratio of attorney contributions increases, the likelihood of receiving a decision in their favor also increases. How

the variables were coded is included in Table 1 and the variable summary statistics and expectations are included in Table 2 for Georgia and Table 3 for Illinois.

Table 1. Variable Descriptions for Logit Model of Decisions on the Merit

Variable		Variable description
Dependent Variable:		
Decision on the Merit	=	0 if the justice did not vote in favor of the attorney team, 1 if the justice voted in favor of the attorney team
Independent Variables:		
Contributions	=	The total dollar amount of each attorney within the attorney team, including a spouse or parent, contributed to the justice
Ratio of Contributions	=	The contributions of the attorney team being observed plus one, over the contributions of the attorney team on the other side of the case plus one
State as Party	=	0 if the attorney team does not represent the state,1 if the attorney team does represent the state
Same City	=	0 if none of the attorneys on the attorney team live in the same city that the court is in, 1 if any of the attorneys on the attorney team live in the same city that the court is in
Same School	=	0 if none of the attorneys on the attorney team attended the same law school as the justice, 1 if any of the attorneys on the attorney team attended the same law school as the justice
Bar Membership	=	the absolute difference between the joining year of the justice and joining year of the member on the attorney team that is closest to the justice's
More than One Attorney	=	0 if there is only one attorney representing the side, 1 if there is more than one attorney representing the side
State Other Party	=	0 if the other side of the case is not the state, 1 if the other side of the case is the state
Attorney General	=	0 if the attorney general is not a member of the attorney team, 1 if the attorney general is a member of the attorney team

Table 2. Illinois Variable Summary Statistics and Expectations				
Variable Name	Expectation	Minimum	Maximum	Mean
Contribution	+	0.0	73170	1192.3
Ratio of Contributions	+	0.0	73171	1198.8
State as Party	+	0.0	1.0	0.313
Same City	+	0.0	1.0	0.223
Same School	+	0.0	1.0	0.083
Bar Membership	-	0.0	48.0	16.5
More Than One Attorney	+	0.0	1.0	0.481
State Other Party	-	0.0	1.0	0.313
Attorney General	+	0.0	1.0	.0745

Table 3. Georgia Variable Summary Statistics and Expectations				
Variable Name	Expectation	Minimum	Maximum	Mean
Contribution	+	0.0	6200	239.5
Ratio of Contributions	+	0.0	5001	86.6
State as Party	+	0.0	1.0	0.277
Same City	+	0.0	1.0	0.603
Same School	+	0.0	1.0	0.361
Bar Membership	-	0.0	43.0	14.7
More Than One Attorney	+	0.0	1.0	0.703
State Other Party	-	0.0	1.0	0.277
Attorney General	+	0.0	1.0	0.185

Chapter 4: Empirical Analyses

To explore the relationship between decisions on the merit, campaign contributions, and attorney team characteristics, I examined all the non-unanimous cases of the Georgia and Illinois State Supreme Court for the 2003 term. Several theoretical reasons motivate inclusion of these courts. Georgia elects its justices through non-partisan elections. Once elected the justices serve 6 year terms. Rules in Georgia that govern judicial elections (passed in 2000) mandate that all contributions over $100 given to a candidate running for a statewide office must be disclosed. Candidates can receive up to $16,000 from a single source by receiving $5,000 in the primary and general elections, as well as $3,000 for each run-off. There is no public funding in the state (Grant 2003).

In choosing the other state, I had to find a court that had a comparable number of non-unanimous cases in the same term. Georgia had 26 cases and Illinois had 27. Non-unanimous cases are used as past research has shown that unanimous cases may contain justices who are compelled by unquantifiable factors, such as precedent, the norm of unanimity, and pressure from the majority (Cann 2007, Songer 1982, and Brace and Hall 1992).

Illinois had a similar number of non-unanimous cases during its 2003 term. It was also an ideal choice in how it differed from Georgia's court. The justices are chosen by partisan elections and serve 10-year terms. After their first election, they are retained for a subsequent term by election. Importantly, Illinois is also the only major state in the Midwest that places no restrictions on campaign contributions (Browser 2009).

The data were compiled using Cann's 2007 data on the Georgia Supreme Court. The unit of analysis consists of an attorney or a team of attorneys, depicted as the appellee or appellant side of a case. My dependent variable is dichotomous - whether or not a justice, as an individual, voted in favor of the attorney team. Altogether I have 636 observations, these are derived from the 27 non-unanimous cases from the 2003 Illinois State Supreme Court term and 26 non-unanimous cases from the 2003 Georgia State Supreme Court term. Each court's data contains observations of 6 of 7 justices' decisions, as both courts had one justice who did not have campaign contribution information available. To explain variation in my dependent variable, I use variables to measure both campaign contributions and attorney team characteristics. The attorney team characteristics are considered as shared social characteristics or personal (team) attributes. I utilize a logit model, as it is the appropriate estimator for a dichotomous dependent variable. It is coded 0 for a vote not in the favor of the attorney team, and 1 for a vote in the favor of the attorney team. One disadvantage with using logit regressions is that the coefficients it produces are not directly interpretable. That is, while a positive number corresponds with an increase in the probability of a 1, one must transform the coefficient values to put them on a meaningful scale. Therefore my model will also predict the odds ratio for each variable. Odds ratios are multiplicative coefficients, meaning that they tell us by how much a variable increases or decreases the odds of an event occurring. Odds ratios range between 0 and infinite, with a negative effect being between 0 and 1, and a positive effect being greater than 1. For example, an odds ratio of 3 means the odds of an event are 200 percent higher for a one-unit increase in the variable, while an odds ratio of .3 means the odds of an event are lowered by 70 percent for a one-unit increase in the variable, holding all other variables constant. This will cause the

outcomes to show whether or not the variables I included increase or decrease the likelihood for a justice to cast a vote in their favor (Long 1997).

I modeled each state separately to determine whether differences between the courts might influence outcomes. Also I further divided the data by appellee and appellant because the distribution of my dependent variable was evenly split. This is a point of departure from prior research, using team/case side as the level of analysis. Rather than looking at the case as one observation per judge, I am examining it as the appellee's team of attorneys per case per judge as one observation, and appellant's team of attorneys per case per judge as another observation. I did this to single out the attorneys on each side of the case and determine whether or not these aspects effect each justice's decision on the merits.

Chapter 5: Results

The results show some interesting findings. Results for the Illinois Court are presented in Table 4 for appellant, and Table 5 for appellee. In terms of campaign contributions, the relationships between contributions and decisions were positive for the appellants, but negative for the appellees. Although neither were significant, it is counterintuitive for the contributions on the either side to have a negative relationship with a favorable decision. On the appellant side if the ratio increases, meaning that the appellant's attorney team gave more money than the other side's attorney team, then they were less likely to receive a decision in their favor. The conflicting directions of the contributions variables are also explained by their lack of significance. There could be many reasons why this relationship was not significant. It could mean that contributions simply do not matter, although, limiting the cases to the 2003 term could create very low variance.

Turning to those variables that measure social networking theory, there is not much to support its influence in attorney justice relations. The only significant influence was whether more than one attorney represented a side, and whether the Attorney General was part of the attorney team. If more than one attorney was present on the side of the appellant's side of a case the odds of the decision being in their favor decreased by 78 percent, which was an unexpected result. This may be because most cases represented by more than one attorney also had more than one attorney for opposing counsel, which resulted in a lack of influence. If the Attorney General was present on the attorney team, the odds of a decision in favor of that side increased

Table 4. Logit Model of Decisions on the Merit, Campaign Contributions, and Attorney Team Characteristics in the Illinois State Supreme Court if Appellant

	Odds Ratio	z	P-value
Contributions	1.0045	0.31	0.755
Ratio of Contributions	0.9954	-0.32	0.753
State as Party	0.4133	-1.64	0.102
Same City	1.2694	0.51	0.608
Same School	1.1425	0.23	0.814
Bar Membership	0.9848	-0.87	0.385
More than One Attorney	0.2252	-3.58	0.000*
State Other Party	0.6678	-0.84	0.401
Attorney General	6.2365	2.34	0.019*

N = 160
Log Likelihood= -99.031
Pseudo R-squared = 0.106

*p<.10, one-tailed

Table 5. Logit Model of Decisions on the Merit, Campaign Contributions, and Attorney Team Characteristics in the Illinois State Supreme Court if Appellee

	Odds Ratio	z	P-value
Contributions	0.5121	-0.83	0.409
Ratio of Contributions	1.9618	0.83	0.406
State as Party	1.9381	1.54	0.123
Same City	1.2125	0.45	0.649
Same School	0.2058	-1.20	0.231
Bar Membership	1.0291	1.72	0.086*
More than One Attorney	1.7697	1.48	0.140
State Other Party	1.9481	1.35	0.175
Attorney General	3.4946	0.90	0.370

N = 158
Log Likelihood= -98.517
Pseudo R-squared = 0.100

*p<.10, one-tailed

by 523 percent. This was expected and indicates that the Attorney General's presence in some ways affects decisions. Whether it is due to his/her elite status, repeat appearances, or ability to choose cases remains to be determined. All other variables did not reach significance.

Results for the appellee's side of the cases show a similar lack of support. Only the generational gap was significant, but in the unexpected direction. For each year that the gap widens, the odds of a vote in the attorney team's favor increases by 2.9 percent, holding all other variables constant. This could be because the majority of the attorney teams were not within 5 years of the justice's joining year. For the few who were close to the judge, a decision in their favor or not did not have any influence. Another idea is that the attorneys who happened to be close in joining year to the justices were in many other respects under-qualified, and therefore caused the relationship to be in the unexpected direction. No other variables were significant.

Results for the Georgia State Supreme Court are presented in Table 6 for appellant, and Table 7 for appellee. There are different directions on the contributions variable for the appellant and appellee, but unlike Illinois the expected relationship was found for the appellee and not for the appellant. When examining the ratio of contributions, as the ratio increases on both the appellee and appellant's model, the likelihood of a decision in that side's favor increases. Although this relationship did not reach significance on the appellee's model, it was significant at the .1 level on the appellant's model, so that as the appellant side outspends the other side of the case's attorney team by one unit (meaning the ratio jumps from 1 to 2 or 2 to 3), the odds of the decision in their favor increases by .05 percent. This is a very small signal that campaign-contributions may matter in the Georgia State Supreme Court. As for the insignificance of other campaign variables there are a number of reasons for this. It may be due to the small number of cases used, or it could be just that campaign contributions do not matter.

Table 6. Logit Model of Decisions on the Merit, Campaign Contributions, and Attorney Team Characteristics in the Georgia State Supreme Court if Appellant

	Odds Ratio	z	P-value
Contributions	0.9998	-0.77	0.441
Ratio of Contributions	1.0005	1.70	0.090*
State as Party	1.0116	0.02	0.980
Same City	0.4889	-1.64	0.102
Same School	0.5486	-1.52	0.129
Bar Membership	1.0060	0.32	0.750
More than One Attorney	2.2662	1.97	0.049*
State Other Party	0.3342	2.25	0.025*
Attorney General	1.0242	0.04	0.972

N = 162
Log Likelihood= -103.208
Pseudo R-squared = 0.068

***p<.10, one-tailed**

Table 7. Logit Model of Decisions on the Merit, Campaign Contributions, and Attorney Team Characteristics in the Georgia State Supreme Court if Appellee

	Odds Ratio	z	P-value
Contributions	1.0001	0.53	0.597
Ratio of Contributions	1.0015	0.47	0.641
State as Party	1.6386	0.52	0.601
Same City	0.9670	-0.08	0.937
Same School	1.3469	0.79	0.429
Bar Membership	0.9918	-0.40	0.688
More than One Attorney	0.8216	-0.44	0.663
State Other Party	0.9810	-0.04	0.968
Attorney General	1.2494	0.25	0.804

N = 156
Log Likelihood= -103.889
Pseudo R-squared = 0.025

***p<.10, one-tailed**

With regard to attorney team characteristics on the appellant side, multiple attorneys reached significance in the expected direction, while state as the other party reached significance in the unexpected direction. This means that on the appellant side, if more than one attorney was present, the odds of a vote in their favor increased by 126 percent, *ceteris paribus*. If the state was the opposing counsel, the odds of a vote in favor of an attorney team increased by 66.58 percent. The remaining variables did not reach significance.

The results for the appelllee side in Georgia were the only model that did not have any variables that reached significance. The results of this model in particular do not lend any support to the influence of campaign contributions or attorney characteristics.

Chapter 6: Discussion

The results of this analysis are not conclusive. No one variable reached significance in the expected direction for all models. Contributions were not a significant influence in any of the models, although the ratio of contributions was significant in Georgia. A partial explanation may be that the cases examined do not account for all of the cases argued in front of the justices that involve campaign contributions. Less than 30 cases were examined, which is a fairly small number of observations (although when multiplying the cases by the justices examined and each side of the case the size of the data set was larger). If more court terms had been examined there may have been more contributions and thus more variation.

The mean of the Illinois contributions was $1,192, but this was mainly affected by a few major contributions from one attorney (see Table 2). The mean of the contributions from the Georgia data was $239 (see Table 3), a smaller amount than Illinois. Georgia was still the only court model to hold significance for any of the contribution variables. Illinois had 23 different contributions while Georgia had 31. Because the ratio of contributions was found to influence decisions, even if it were only for the appellants in the Georgia court, future research should control for the amount given by the other side of the case in relation to the amount given by the observed side. It may not matter if an attorney team gave a contribution, so much as whether they gave more than the other side.

What may be interesting is that the use of a simple logit model did not find contributions to be significant in the Georgia model, which uses the same court cases as Cann's 2007 study. However, through the use of a two-stage least squares technique, Cann was able to prove

causation and show influence. The lack of results in this study may lend support to testing the use of instrumental variables probit technique in future research.

Social networking theory is not supported in these models. The only variable to be in the predicted direction in every model, not even reaching significance, was whether or not the Attorney General was a member of the attorney team. This may be because there is no way that the justices would not be able to identify this person. The other variables may not matter as much if the attorney and the justices had not met. While a justice may know some attorneys' backgrounds, if they do not know the majority of them, the social networking theory holds no water in this scenario. Social networking theory may be more relevant in the lower courts, which are more restricted in geography. Perhaps proximity results in more interactions between the justices and the attorneys outside of the court. If there are more interactions, than there is more of a chance that the justices will know the background characteristics of attorneys. Future research should investigate the social networking theory beyond state supreme courts.

A major drawback of this research is that it fails to take into account any case facts or the attitudinal considerations. Whether the decisions were considered liberal or conservative may have accounted for a lot of the variance, thus allowing the attorney team characteristics to account for smaller amounts. Extant literature has certainly shown a strong connection between the liberal or conservative nature of cases and the justices' own liberal or conservative attitudes (McCall 2003, Cann 2007, Segal and Spaeth 2007, Bonneau and Cann 2008). Judicial decisionmaking in this way might be heavily influenced by judicial attitudes, which is not accounted for here. The case facts being left out are another major fault. Past literature shows that these controls are significant and future research should not ignore them (McCall 2001, 2003, Cann 2007, Segal and Spaeth 2007, Bonneau and Cann 2008). Amicus briefs, the

overturning of precedent, and the type of case are important considerations that are not accounted for in this model. Another influential control could have been salience. If the case had been more salient than other cases, justices may act in a different manner when media and constituency attention are on them. This also leads to another consideration that is not addressed in the literature, the interaction of the court with opinions and preferences of other political elite. How the governor, the state legislature, or even the federal courts react and feel about certain issues could cause the court to decide cases differently if they believe that those entities will take action if a case is decided in a certain way. As one can see, the possibilities of influence are countless. However future researchers approach this problem, they must involve consideration of many different possible influences of the court as opposed to just one theory.

Another possibility could be that, in the end, none of this matters. Justices determine the law by precedent, and in difficult cases may simply reach different conclusions. However, this paper does not lend support to this theory. Either way, this model does not point to any definitive conclusion. Future research should incorporate more recent terms of the court because research shows that these cases are getting more and more expensive. As they become more expensive, money becomes more important in the elections of judicial candidates. As that happens, justices may find themselves presiding over cases that involve contributors, and feeling more in debt to these than they had in the past. This could result in contributions influencing the court.

While this thesis does not shed much light on the answer, it does highlight some of its own errors that may help researchers in the future to get to the bottom of this issue. Roscoe Pound said in 1906, “putting courts into politics, and compelling judges to become politicians, in many jurisdictions has almost destroyed the traditional respect for the bench” and though this

may seem relevant today, only when more research is done can the truth of this assessment be made and a call for reform be validated (Guilty 2004, 28).

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