Have State Supreme Court Elections Nationalized?

Aaron Weinschenk*, Mandi Baker, Zoe Betancourt, Vanessa Depies, Nathan Erck, Quinne Herolt, Amanda Loehrke, Cameron Makurat, Hannah Malmberg, Clarice Martell, Jared Novitzke, Bradley Riddle, Tara Sellen, Leah Tauferner, Emily Zilliox

Political Science Research Lab
Department of Political Science
University of Wisconsin-Green Bay
2420 Nicolet Drive
Green Bay, WI 54311

*Corresponding author: Aaron Weinschenk, Associate Professor of Political Science. E-mail: weinscha@uwgb.edu. All other authors are undergraduate students at the University of Wisconsin-Green Bay.
Abstract: Over the past several years, scholars of political behavior have become increasingly interested in the nationalization of U.S. elections. Research has shown that there is now a strong connection between presidential vote patterns and voting in House, Senate, gubernatorial, and state legislative elections. In this paper, we extend previous research by examining the role of the presidential vote in state supreme court elections. Using an original dataset containing county-level election results (N=14,814) from 2000-2018 for all states that hold partisan or nonpartisan state supreme court elections, we examine the influence of presidential vote share in state supreme court elections. A number of important findings emerge. First, we find that presidential vote share influences voting in state supreme court contests. There is a statistically significant relationship in both partisan and nonpartisan elections even after controlling for incumbency, though the relationship is much stronger in states with partisan elections. Second, the relationship between presidential vote share and the state supreme court vote has been fairly stable over time. In short, the presidential vote has played a role in state supreme court elections since 2000, but the strength of relationship has not increased dramatically over the past two decades. Future research should continue to track the role of national political forces in state supreme court elections.

Keywords: nationalization; state supreme court elections; presidential vote; elections
Introduction

In 2018, NPR host Ari Shapiro observed that “…all politics is local, but elections around the country this year are challenging that notion” (Johnson, 2018). Recently, political observers and scholars have started to pay more attention to the role of national political forces (e.g., presidential vote choice or approval ratings) in subpresidential elections. Over the past several years, numerous studies have demonstrated that elections for many offices in the United States have “nationalized” (Sievert and McKee 2019; Hopkins 2018; Abramowitz and Webster 2016; Jacobson 2015). Thus far, scholars have primarily focused on the role of presidential politics in congressional, gubernatorial, and state legislative elections, but it appears that presidents (and vice presidents) are even making their way into state supreme court elections, many of which are officially nonpartisan. This may be an indication that these types of elections are nationalizing alongside their congressional, gubernatorial, and state legislative counterparts. A few examples help illustrate the link between presidential politics and state supreme court elections. The 2016 North Carolina supreme court election provides a perfect illustration. In that race, President Barack Obama officially endorsed Judge Mike Morgan.¹ Just a few years later during the 2018 Wisconsin supreme court election, Vice President Joe Biden endorsed Judge Rebecca Dallet.² Outside of political endorsements, presidents have been integrated into state supreme court races in other ways during the campaigns. For example, in a 2019 advertisement from the Republican State Leadership Committee in support of Wisconsin Supreme Court candidate Brian Hagedorn, images of President Trump appeared in the background and a voiceover declared “President Trump. A conservative Supreme Court defending our rights. All thanks to YOUR vote.”³ In this paper, we are interested in taking a closer look at the role presidential politics in state supreme court elections. Have state supreme court elections nationalized over time?

There is now a burgeoning literature on the nationalization of U.S. elections. According to Sievert and McKee (2019), “nationalization refers to an increasing linkage between presidential voting patterns with subpresidential contests at the federal, state, and local level” (1056). Nationalization appears to be a widespread phenomenon. Jacobson (2015), for example, finds that there has been a growing nationalization of U.S. House elections and, consequently, a decrease in the electoral value of incumbency. LeVeck and Nail (2016) and Carson, Sievert, and Williamson (forthcoming) report similar findings. There is also growing evidence that Senate and gubernatorial elections have nationalized. Hopkins (2018) shows that there is an incredibly strong connection between voting in presidential and subpresidential elections. In fact, he notes that there is now almost a perfect correlation between county-level presidential and gubernatorial vote share. Sievert and McKee (2019) examine the nationalization of gubernatorial and Senate elections, finding that in both types of elections presidential voting patterns have come to exert greater influence than they have in the past. It appears that nationalization is not just occurring in federal elections, though. It has also been happening in the context of state legislative races. Indeed, Abramowitz and Webster (2016) note that the average correlation between the Democratic presidential vote share and the Democratic share of state legislative seats has increased substantially over time. Relatedly, Zingher and Richman (forthcoming) find that the presidential vote is related to state legislative outcomes, though presidential vote share is a stronger predictor of state legislative election outcomes when polarization is higher at the national level than it is at the state level.

In this paper, we build on recent research on the nationalization of elections by turning to state supreme court contests. Although political observers and the examples above indicate that state supreme court races now seem to be influenced by national political forces, we are not aware of studies that have systematically examined the relationship between aggregate presidential and state supreme court voting patterns over time. Here, we are interested in several questions about the role of national political forces

---

4 Hopkins (2018), for example, starts his book with an example of national politics being integrated into a state supreme court race: “The health care law played a role even in races as removed from national politics as a 2014 retention election for the Tennessee State supreme court. There, three incumbent
in state supreme court elections. As a starting point, we want to know whether and to what extent presidential vote share, an important measure of nationalization, is related to vote share in state supreme court elections. Hopkins (2018) has noted that “elections for state offices increasingly feel like reruns of the presidential election” (9). How similar are voting patterns in presidential elections and state supreme court races? Given the research outlined above showing that presidential voting patterns influence a wide array of elections, our expectation is that presidential vote share will be related to state supreme court vote share. Importantly, though, we expect the relationship between the presidential vote and state supreme court vote to vary depending on an important electoral institution that differs across states—the use of partisan or nonpartisan ballots. More specifically, our expectation is that the presidential vote will have a stronger connection to the state supreme court vote in states that hold partisan state supreme court elections compared to those with nonpartisan elections. This expectation is based on the idea that in elections where the partisanship of supreme court candidates is on the ballot, voters will have a much easier time connecting presidential and state politics (Shaffner, Streb, and Wright 2001). Just to be clear, our argument is not that the presidential vote will be unrelated to vote for state supreme court in nonpartisan elections—there is ample evidence that voters still use political factors like party identification in nonpartisan judicial elections (Bonneau and Cann 2015; Bonneau and Hall 2009)—but rather that there will be a weaker relationship between the presidential and state supreme court vote in nonpartisan contexts. As the studies described above make clear, the concept of nationalization is about changes in the relationship between presidential elections and subnational contests. Thus, we are not just interested in the overall relationship between presidential vote share and state supreme court vote share; we also want to know if the relationship between presidential and state supreme court voting patterns has

justices found themselves targeted by TV advertisements denouncing them because ‘they advanced Obamacare in Tennessee. The justices had not actually heard any cases related to the federal law. But they had appointed the state’s attorney general, and he later chose not to join an anti-Obamacare lawsuit, providing ammunition to their opponents…” (p. 1). This example is largely used to illustrate that national politics can make its way into state-level elections; Hopkins does not analyze the link between presidential vote patterns and voting in state supreme court races.
changed over time. If state supreme court races are nationalizing like House, Senate, gubernatorial, and state legislative contests, we should see a stronger connection between the presidential vote and state supreme court vote over time.

**Data and Measures**

Before gathering election results for state supreme court contests, we identified the states that use partisan or nonpartisan elections\(^5\), which has been compiled by the Brennan Center for Justice.\(^6\) We omitted states that have elections for the state supreme court but elect on a district basis rather than statewide basis (IL, KY, MS, LA). This left us with the following states: Alabama, Arkansas, Georgia, Idaho, Michigan, Minnesota, Montana, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Texas, Washington, West Virginia, and Wisconsin. Of these states, only a handful (Texas, Alabama, Pennsylvania, and New Mexico) have partisan elections. We note that North Carolina was partisan until 2002 but moved to nonpartisan elections from 2004-2017. They now hold partisan state supreme court elections. In addition, West Virginia was partisan until 2012 but shifted to nonpartisan starting with the 2018 election. For the two states that have undergone institutional changes, any elections that occurred when the state was nonpartisan are analyzed along with the other nonpartisan states. Similarly, any elections that occurred when the state was partisan are analyzed alongside the other partisan states.

We compiled state supreme court election returns from the Secretary of State in each state. Given that it is often difficult to obtain election returns prior to 2000 (since many places discard state and local elections data after record keeping requirements have passed), we focused on gathering data on all

\(^5\) We do not analyze states that use gubernatorial or legislative appointment or the Missouri plan/merit selection since there are no statewide elections for the court in those places. In addition, we do not analyze retention elections since they only entail one candidate.

\(^6\) See: https://www.brennancenter.org/our-work/research-reports/judicial-selection-interactive-map. We investigated hybrid states (there are only 4), but only one of them, New Mexico, holds partisan or nonpartisan elections (in addition to nominating commission and gubernatorial appointment). In New Mexico, a sitting justice must compete in a partisan election during the first general election after her appointment. If she is successful in the partisan election, she serves the remainder of the seat’s eight-year term. Our data set includes 5 such elections that were held in New Mexico from 2000-2018.
elections between 2000 and 2018 in each state. Our dependent variable is the county-level Democratic state supreme court candidate share of the two-party vote in each election (total votes for the Democratic court candidate/total votes for Democratic court candidate + total votes for Republican court candidate).

Of course, in partisan states it is easy to identify the partisanship of each candidate. However, we also needed to determine the partisanship of candidates in nonpartisan elections. We were able to make educated guesses about the party affiliation of the candidates in nonpartisan elections based on prior office holding, prior campaigns, other public political experience, and endorsements. In general, we gleaned partisanship information from local news articles and web searches. To find candidate partisanship, our web searches typically included terms like “[candidate’s name] + Democrat” or “[candidate’s name] + conservative” or “[candidate’s name] + [state name] + [supreme court] + Republican.” In many non-partisan cities, local media coverage of the candidates mentions candidate partisanship (or ideology) directly or indirectly (e.g., the candidate has the backing of the county Republican Party; the candidate touts their conservative background). Our approach is in line with other recent studies on nonpartisan elections, including de Benedictis-Kessner and Warshaw (2016), who “coded candidates’ partisanship based on any clear indicators that candidates’ leaned toward one of the two parties. These indicators included past or future partisan elected offices that a candidate held, mentions in historical newspaper articles of their partisanship, and campaign-donation-based data.” We were able to find the partisanship of candidates in nonpartisan contests in nearly every election in our dataset. In the few instances where we could not find any reliable information on a candidate’s partisan leanings, we omitted the election from our analysis.\(^7\) In terms of other data considerations, we note that we omitted elections where there was only one candidate (since it is not possible to calculate two-party vote share in such races), where all candidates were of the same party (again, since it is not possible to calculate two-party vote share in such races), and where there were more than two candidates, a fairly

\(^7\) A file containing a list of all candidates in our dataset and the sources we used to identify their partisanship can be found here: [URL omitted for peer review]. The elections where we could not find candidate partisanship were: MN, 2000; MN, 2012; ND, 2016, 2018; WA, 2014; AK, 2014; OR, 2004.
uncommon occurrence in state supreme court elections. In total, our dataset consists of 7,804 county-level data points in partisan elections and 7,010 county-level data points in nonpartisan states (N=14,814).

Our key independent variable is county-level Democratic presidential vote share (total votes for the Democratic presidential candidate/total votes for Democratic presidential candidate + total votes for Republican presidential candidate), which we obtained from the MIT Election Data and Science Lab website. For each supreme court election, our presidential vote share measure is based on the previous presidential election (i.e., if a state supreme court election was in 2011, we would use data from the 2008 presidential election). This measure enables us to examine the extent to which presidential elections correspond to state supreme court elections.

Beyond Democratic presidential vote share, we gathered data on one additional variable—the incumbency status of each race. This information was collected by examining election returns, state supreme court websites, and local news articles. Most other analyses of nationalization include incumbency as a control variable (see, e.g., Sievert and McKee 2019; Jacobson 2015) given the explanatory power of incumbency in U.S. elections. Given that higher values on our dependent variable indicate greater Democratic support, we code incumbency as +1 if the Democrat is the incumbent, 0 if it is an open seat, and -1 if the Republican is the incumbent.

**Results and Analysis**

As a starting point for understanding the relationship between presidential and state supreme court elections, we present two scatterplots showing the correlation between county-level Democratic presidential vote share and county-level Democratic supreme court. Figure 1 shows the relationship in states that use partisan elections. Overall, there is a strong, positive relationship between presidential and

---

8 Since we also control for incumbency, it would not make sense to include this measure in races with more than two candidates. Indeed, if a race had 2 Democrats (one of whom was the incumbent) and 1 Republican, and we calculated Democratic vote share based on the 2 Democratic candidates, we wouldn’t expect both of the Democrats to get a boost from incumbency (since only one of them is actually the incumbent).

9 https://electionlab.mit.edu/data

10 Both variables are coded from 0-100%. 
state supreme court vote share. The Pearson’s $r$ value is 0.93, which is statistically significant at the $p<.001$ level. Figure 2 displays the relationship between county-level Democratic supreme court vote share and county-level Democratic presidential vote share in states that hold nonpartisan supreme court elections. Our expectation was that the relationship between Democratic presidential and state supreme court vote share would be weaker in nonpartisan states than in partisan states. The data in Figure 2 confirm this idea. Here, we see that there is a positive relationship between the two measures, although the Pearson’s $r$ is 0.30. Even so, the correlation is statistically significantly at the $p<.001$ level. Overall, Figure 2 provides initial evidence that national factors play a role in non-partisan elections. This finding fits well with previous studies showing that the nonpartisan ballot generally does not keep political considerations out of elections (Shaffner, Streb, and Wright 2001; Bonneau and Cann 2015a, 2015b; Bonneau and Hall 2009).

![Figure 1: The Relationship between Presidential and State Supreme Court Elections, Partisan States](image)

In Tables 1 and 2, we present the results of regression models where Democratic state supreme court vote share is the dependent variable and the Democratic presidential vote share is included as a
predictor. In each model, we also control for incumbency. Given our coding of incumbency, we expect that the coefficient will be positively signed. In Table 1, we see that incumbency has a positive and statistically significant ($p<.05$, one-tailed) effect on Democratic supreme court vote share. Thus, there is an incumbency advantage in state supreme court elections, which fits with a great deal of previous research on the role of incumbency in elections (Jacobson and Carson 2015). Importantly, we find that the Democratic presidential vote share coefficient is 0.986 and is statistically significant ($p<.001$, one-tailed). Even after controlling for incumbency, there is a strong connection between the presidential vote and state supreme court vote. This is not too surprising since partisan labels are on the ballot in these elections, making it easy for voters to connect national politics to state-level elections.

![Figure 2: The Relationship between Presidential and State Supreme Court Elections, Nonpartisan States](image.png)
Table 1: Linear Regression Model of Democratic Vote Share in State Supreme Court Contests, Partisan Elections

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>S.E.</th>
<th>t-score, p-value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Democratic Presidential Vote Share</td>
<td>0.986</td>
<td>0.019</td>
<td>t= 52.61, 0.000</td>
</tr>
<tr>
<td>Incumbency</td>
<td>1.742</td>
<td>0.820</td>
<td>t= 2.12, 0.044</td>
</tr>
<tr>
<td>Constant</td>
<td>5.412</td>
<td>0.696</td>
<td>t= 7.78, 0.000</td>
</tr>
</tbody>
</table>

Number of Observations: 7,804

Adjusted R$^2$: 0.872

Notes: Standard errors clustered by state.

Table 2: Linear Regression Model of Democratic Vote Share in State Supreme Court Contests, Nonpartisan Elections

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>S.E.</th>
<th>t-score, p-value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Democratic Presidential Vote Share</td>
<td>0.338</td>
<td>0.049</td>
<td>t= 6.90, 0.000</td>
</tr>
<tr>
<td>Incumbency</td>
<td>7.606</td>
<td>1.172</td>
<td>t= 6.49, 0.000</td>
</tr>
<tr>
<td>Constant</td>
<td>33.989</td>
<td>2.133</td>
<td>t= 15.93, 0.000</td>
</tr>
</tbody>
</table>

Number of Observations: 7,010

Adjusted R$^2$: 0.336

Notes: Standard errors clustered by state.

In Table 2 we present the same model, but here we analyze nonpartisan elections. Again, the effect of incumbency on Democratic supreme court vote is positive and statistically significant ($p<.001$, one-tailed). Interestingly, incumbency has a much larger effect in nonpartisan elections ($b=7.606$) than it does in partisan elections ($b=1.742$). This fits nicely with previous studies showing that when partisan cues are absent (or difficult to find), voters rely more heavily on other information cues (Schaffner, Streb, and Wright 2001; Kirkland and Coppock forthcoming). When it comes to the effect of presidential vote share in nonpartisan elections, Table 2 shows that the coefficient for Democratic presidential vote share is much smaller ($b=0.338$) in nonpartisan elections than in partisan contests ($b=0.986$), although the effect is statistically significant at $p<.001$ (one-tailed). It is also worth pointing out that the adjusted R$^2$ values differ quite a bit when comparing Tables 1 and 2. In partisan elections, the adjusted R$^2$ value is 0.872. In comparison, it is much lower at 0.336 in nonpartisan contests. In other words, presidential vote share and incumbency have more explanatory power in partisan elections. It is worth noting that much of the explanatory power in the models comes from presidential vote share. Indeed, when we just regress Democratic state supreme court vote share on Democratic presidential vote share in partisan elections, the adjusted R$^2$ value 0.869. In nonpartisan elections, the adjusted R$^2$ value is 0.088 when we just use
Democratic presidential vote share to predict Democratic state supreme court vote share. Overall, the results in Table 2 provide solid evidence that national politics play a role even in nonpartisan state supreme court elections.

Although Tables 1 and 2 demonstrate that presidential vote share is related to state supreme court vote share, by pooling together all elections from 2000-2018 we are not able to see whether and how the relationship between presidential vote share and state supreme court vote share changes over time. Although it is interesting to examine the average effect of presidential elections in state supreme court elections, the concept of nationalization centers on the idea that the relationship between presidential voting patterns and voting patterns in subpresidential contests has gotten stronger over time. To examine whether the strength of the relationship has changed over time, we ran the models in Tables 1 and 2 for different periods of time.\(^\text{11}\) Since there are many years in our dataset where just one or two states had an election (i.e., only Wisconsin had an election in 2011 in the nonpartisan dataset), we opted to group the elections into sets of years (i.e., 2000-2002, 2003-2004). This allows us to make sure that we have a sufficient amount of data for each regression model. Although we have a fairly short time series relative to other studies on nationalization (some of the congressional studies go back to the antebellum era), we should be able to see evidence of nationalization if it is occurring in state supreme court elections. Indeed, previous scholars have found that from 2000 onward there has been a significant increase in the strength of the relationship between presidential and subpresidential vote patterns (see Sievert and McKee 2019, 1063). In short, if nationalization is happening in the context of state supreme court elections, the effect of Democratic presidential vote share on Democratic state supreme court vote share should increase from 2000 to 2018.

\(^{11}\) Point 1 on the partisan line represents the years 2000 to 2002, point 2 is 2003 and 2004, point 3 is 2006 to 2008, point 4 is 2009 and 2010, point 5 shows 2012 to 2014, point 6 is 2016 and 2017, and point 7 represents 2018 (in some years there were no elections in partisan states in our dataset, which is why not all years between 2000 and 2018 are included). The nonpartisan points correspond to the following years: Point 1 is 2000 through 2002, point 2 represents 2003 and 2004, point 3 is 2006 and 2007, point 4 from 2008 through 2009, point 5 represents 2010 and 2011, point 6 from 2012 to 2013; and point 7 represents 2014, 2016, and 2018.
In Figure 3, we use the results of the models to plot the coefficient for Democratic presidential vote share for each time period (separately for partisan and nonpartisan elections). For each set of coefficients, we summarize the trend by adding a lowess line. A number of interesting findings emerge from the figure. First, there is a strong relationship between Democratic presidential vote share and Democratic state supreme court vote share in partisan elections, which has remained remarkably stable over time. This means that in states with partisan elections, there has long been a tight link between presidential and state supreme court voting patterns. Turning to the results for nonpartisan elections, we note that in all of the models except the first one (which is based on elections from 2000-2002, \( p = .133 \), one-tailed), Democratic presidential vote share is a statistically significant predictor of Democratic state supreme court vote share. Not surprisingly, the coefficient for Democratic presidential vote share in nonpartisan elections is always much smaller than it is in partisan elections. Interestingly, although there is some variability in the strength of the relationship (the coefficients range from 0.20 to 0.53), the lowess line indicates that the relationship has been fairly consistent over time. Thus, despite evidence of nationalization in other types of U.S. elections, our data indicate that in state supreme court elections, the strength of the relationship between Democratic presidential vote share and Democratic state supreme court has not increased dramatically over the past two decades.
In this paper, we extended research on the nationalization of U.S. elections to state supreme court contests. Using an original dataset containing county-level election results from 2000-2018 for all states that hold partisan or nonpartisan state supreme court elections, we examined the influence of presidential vote share in state supreme court elections. We found that presidential vote share influences voting in state supreme court contests. In both partisan and nonpartisan elections, there is a statistically significant relationship between Democratic presidential vote share and Democratic state supreme court vote share even after controlling for incumbency. As expected, the relationship was stronger in states that use the partisan ballot. We also found that the relationship between presidential vote share and the state supreme court vote has been fairly stable over time. While the presidential vote has played a role in state supreme court elections since 2000, the strength of relationship has not increased dramatically over the past two decades. This holds for both partisan and nonpartisan elections.
Our research suggests a number of avenues for future scholars. First, researchers could consider extending this study to examine the relationship between presidential and state supreme court voting prior to the year 2000. This would provide an even longer-term look at the role of national factors in state supreme court elections. We focused on elections since 2000 because it is often difficult to obtain elections returns before 2000 in many states. If future researchers wish to extend this study to earlier time periods, they will likely need to contact state and county officials directly in order to obtain older elections data. It could also be interesting for further researchers to quantify how easy or difficult it is to find the partisanship of candidates in supposedly nonpartisan races. Although we were able to find the partisan leanings of nearly every candidate in our dataset, some were more difficult to find than others. Quantifying the availability of partisan cues could provide a sense of accessibly of candidate partisanship in the electorate. It seems likely that the link between the presidential and state supreme court vote may be shaped by how salient cues like candidate partisanship are to voters. Relatedly, we also encourage research on the influence of media coverage on the nationalization of different types of elections. One would expect media coverage to change as certain types of elections have nationalized. It would be valuable to conduct content analyses of campaign materials and news articles to see when and how national political factors are integrated into elections.

References


