

ORIGINAL ARTICLE

If You Insist... Identity and Interim Appointments on Elected State Supreme Courts

Shane A. Gleason¹  and Marigail G. Reyna²

¹Public Policy & Law Program, Trinity College, Hartford, Connecticut, USA and ²Department of Social Science, Texas A&M University-Corpus Christi, Corpus Christi, Texas, USA

Corresponding author: Shane A. Gleason; Email: shane.gleason@trincoll.edu

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Abstract

State supreme courts, long White and male, are increasingly diverse in recent years. As a result, a growing literature explores how various minority groups reach the bench. Interim appointments, occurring when governors in electoral states appoint someone to fill a midterm vacancy, are largely absent from this literature. This is problematic because, in states utilizing judicial elections, nearly half of all jurists initially receive an interim appointment. This subsequently conveys an incumbency advantage and may bypass women's and racial minorities' lower propensity to seek and secure office. Indeed, interim appointments are crucial to court diversification. Since appointment predictors vary by identity, we explore the path members of several groups take to the bench. We do so by drawing on a dataset of every jurist joining electoral state supreme courts from 1980 to 2023. We argue non-traditional jurists' interim appointments are conditional on the governor's political affiliation, institutional constraints, and the broader political context. We find Democrats are generally more likely to appoint non-traditional jurists, although both institutional and political factors are important moderators. Additionally, appointment predictors vary by identity group. Our findings underscore the nuanced ways state supreme courts become more diverse and the conditions under which governors appoint non-traditional jurists to the bench.

Keywords: gender politics; identity/group politics; governors; judicial politics; judicial elections; executive/judicial interaction; judicial selection

Leah Ward Sears was the first Black woman to serve on the Georgia Supreme Court. Though Georgia selects justices via non-partisan elections, Sears was initially appointed by Governor Zell Miller to complete an unexpired term. She subsequently won reelection three times and served as chief justice. Often at odds with her colleagues on questions of criminal justice (Davis 2017), Chief Justice Sears certainly impacted Georgia case law and helped usher in greater diversity on both the bench

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and in the chief justiceship nationwide (e.g., Szmer, Christensen, and Kaheny 2015; Wilhelm *et al.* 2024). Yet, her presence on the court at all arguably came down to Governor Miller's decision to appoint her (e.g., Graham 1990; Holman and Schneider 2018; Holmes and Emrey 2006). While it is counterfactual to speculate if Sears would have run for office absent Miller's appointment, her story raises questions about the substantive impact of non-traditional jurists (e.g., Hurwitz and Lanier 2001; Kang *et al.* 2020; Scherer and Curry 2010)¹ and the conditions under which they take the bench (e.g., Bratton and Spill 2002; Golezhauser 2011).

Diversifying state supreme courts brings many normative benefits, not the least of which is increased legitimacy (e.g., Pitkin 1967). Descriptively representative institutions are viewed more favorably and are more likely to have their decisions accepted (see, for instance, Achury *et al.* 2022; Mansbridge 1999; Scherer and Curry 2010). Moreover, descriptive representation often precedes substantive representation, which brings new perspectives to the decision-making process and can prompt substantively different outcomes under some conditions (see, for instance, Leonard and Ross 2015; Moyer *et al.* 2021; Songer, Davis, and Haire 1994). Though both descriptive and substantive representation are important for any institution (e.g., Badas and Stauffer 2019; Bobo and Gilliam 1990; Campbell and Wohlbrecht 2006), they take on especial meaning in state courts, which have a more direct impact on most Americans' daily lives than federal courts because of both the volume and scope of decisions (Gibson and Nelson 2021; Hernandez and Navarro 2019; Walker and Barrow 1985). Particularly, since legitimacy is not monolithic across sub-populations (Achury *et al.* 2022; Evans *et al.* 2017; Means and Unah 2025; Scherer and Curry 2010) and the United States is increasingly diverse (Merriman, Isozaki, and Bannon 2024), it is critical scholars understand how courts diversify across multiple identity axes (e.g., Alozie 1999). It is also important to recall diversification varies by political and institutional context and the time and the identity in question.

Diversifying the bench necessarily requires exploring judicial selection (Golezhauser 2011; Hurwitz and Lanier 2001). Though no single system privileges or disadvantages non-traditional candidates, women and racial minorities are often less likely to seek office. When they do run in states utilizing judicial elections, they face particular difficulty (Eugenis 2021; Nguyen 2019). Consequently, initial diversification in electoral states often happens via gubernatorial appointment to unexpired terms (Bratton and Spill 2002; Hurwitz and Lanier 2008). The question then becomes under which conditions do governors choose to appoint non-traditional jurists to the bench?

Leveraging recent patterns in judicial diversification on multiple axes (Goelzhauser 2018a; 2024), we analyze how non-traditional jurists initially reach the bench on elected state supreme courts from 1980 to 2023. Recognizing gubernatorial appointments are the primary way institutions diversify and that they are a function of political and institutional context (Golezhauser 2011; Rhinehart and Geras 2020), we pay particular attention to the conditions under which governors make appointments (e.g., Holmes and Emrey 2006). Utilizing scholarship on gubernatorial appointments broadly, we contend Democratic governors are more likely to appoint non-traditional jurists, particularly when their choice is institutionally

¹By "non-traditional" jurists, we mean those from identities that do not fit with the historical norm of jurists (e.g., White men) (e.g., Goelzhauser and Cann 2014; Johnson 2021)

unconstrained. Moreover, shifting political context may alter the propensity for a jurist from a given background to be appointed or elected (e.g., Bratton and Spill 2002; Hurwitz and Lanier 2008). We find support for our expectations.

The diversification of the bench

The benefits of judicial diversification can only be realized *after* jurists take the bench. Thus, it is important to explore how jurists reach state supreme courts. While no selection system inherently privileges non-traditional candidates more so than any other (Alozie 1996; Hurwitz and Lanier 2001), non-traditional candidates across a range of institutions are less likely to run save for particular conditions (e.g., Anzia and Berry 2011; Gordon 2016; Holman and Schneider 2018; Rhinehart and Geras 2020). Consequently, non-traditional candidates often initially take office via gubernatorial appointment. Indeed, interim appointments are exceptionally common in electoral states (Gibson and Nelson 2021). These appointments provide governors a chance to shape the bench to their policy preferences (Reddick, Nelson, and Caufield 2009; Vining, Bullock, and Boldt 2023).

Governors' opportunity to appoint officials, judicial or otherwise, is inherently political (Cooper, Knotts, and Ragusa 2016; Vining, Bullock, and Boldt 2023). While this clearly extends to entrenching policy preferences on the bench, there are also other political benefits to appointing non-traditional jurists (Bratton and Spill 2002). Surprisingly, there is relatively little work on gubernatorial appointments generally (Bernick 2016; Riccucci and Saidel 2001), but existing work suggests gubernatorial appointments are a function of partisanship, institutional constraints, and time.

Democrats often place a higher premium on diversity than Republicans (e.g., Grossmann and Hopkins 2015; Solberg and Diascro 2020). We expect Democratic governors to be more likely to appoint non-traditional jurists (e.g., King, Schoenherr, and Ostrander 2025; Reddick, Nelson, and Caufield 2009). However, institutional context limits who governors, regardless of party, can appoint. While some governors enjoy unrestricted choice in nominations, others are constrained by a system not unlike merit selection wherein the governor chooses from a committee-supplied shortlist often lacking diversity (e.g., Golezhauser 2011). Accordingly, we argue Democratic governors are more likely to appoint non-traditional jurists when unconstrained. Also, the relative value of a non-traditional appointment for a governor varies by time and type of diversity (Alozie 1996; Cooper, Knotts, and Ragusa 2016; Holmes and Emrey 2006; Hurwitz and Lanier 2003). So, an explanation for women taking the bench does not necessarily translate to one for racial minorities (Martin and Pyle 2002), while there may have been political benefits to appoint women in 1983, that may not be true in 2023 (e.g., Bratton and Spill 2002; Kennedy, Nelson, and Heidt-Forsythe 2025). We now turn to a more detailed account of our expectations.

The appointment calculus

Appointment is one of the most powerful tools at the governor's disposal; however, it is understudied in general (Bernick 2016). These appointments, along with their federal counterparts made by the president (Abraham 2008), have a particularly profound impact on the relative diversity of government institutions (e.g., Baker *et al.* 2024; Dolan 2001; Johnson 2021; Rhinehart and Geras 2020). This has been

particularly true since President Carter's push to diversify the federal judiciary in the 1970s (Haire and Moyer 2015; Solberg and Diascro 2020). While states have also diversified, it is uneven (Goelzhauser 2024). As of 2023, 19 states had no persons of color on their apex courts. Five states had just one female justice. Twenty-five states lack *any* women of color (Merriman, Isozaki, and Bannon 2024). We contend the extent to which governors appoint non-traditional jurists can be explained by the interplay of political and institutional factors (e.g., Golezhauser 2011).

Despite a myriad of judicial selection methods, states generally utilize election, merit selection, or appointment (Goelzhauser 2018a).² While no single method is ideal for diversification (Alozie 1996; Hurwitz and Lanier 2003), in the 22 states utilizing judicial elections, women are less likely to run for office than their male counterparts (Nguyen 2019). While voters are not biased against female judicial candidates (Kennedy, Nelson, and Heidt-Forsythe 2025), women face more primary challengers than men (Eugenis 2021) and require more encouragement to run for office or apply for prestigious positions even when qualified (Anzia and Berry 2011; Badas and Stauffer 2023).³ Racial minorities have more difficulty winning statewide races (Rhinehart and Geras 2020), which is how a majority of state supreme court races are conducted.⁴ This collectively suggests non-traditional jurists should be less likely to take the bench in electoral states; yet many still do. Much as in the diversification of state-level executive agencies, this often occurs via gubernatorial appointment (Rhinehart, Geras, and Hayden 2021).

Appointment systems seemingly mirror the federal system. In general, the governor selects a nominee subsequently confirmed by some body (e.g., the state senate). Research on the federal model notes diversification may come down to the idiosyncrasies of the appointing president (Solberg and Diascro 2020). In shifting to the state level, the limited scholarship on other gubernatorial appointments is instructive. This research notes governors often appoint those who share broader ideological goals (Ricucci and Saidel 2001). Moreover, governors are often strategic in appointments to enhance their own future political goals (Cooper, Knotts, and Ragusa 2016). We now extend this logic to the courts.

Since judicial appointment systems are nominally only used by a handful of states (Goelzhauser 2018a), they receive less scholarly attention than elections or merit selection. However, a variation of the appointment system is used extensively in electoral states to fill midterm vacancies (Reddick, Nelson, and Caufield 2009). Midterm vacancies are not rare; jurists may leave the bench to accept a federal judicial appointment or run for a higher state-level office (Gibson and Nelson 2021). Additionally, jurists approaching mandatory retirement may strategically resign to allow an ideologically proximate governor to appoint a successor (Curry and Hurwitz 2016). This allows the appointee to run as an incumbent in the next election (Kritzer 2015; 2023; Lynch 2017).⁵

Roughly half of all justices in electoral states are initially appointed (Kritzer 2023); on some courts, the majority of jurists initially reach the bench this way (Gibson and

²There are countless variations on how these systems work in practice. This is particularly true when considering retention systems in tandem with selection systems (Goelzhauser 2018a).

³This is exacerbated for intersectional candidates (Arrington 2019; Holman and Schneider 2018).

⁴This may be rooted in White voters' fears that Black jurists are less fair in the context of racial resentment (Means and Unah 2025).

⁵This is not the case in Arkansas where interim appointees are barred from seeking a full term.

Nelson 2021).⁶ Perhaps most pertinent for our purposes, appointments are frequently how benches initially diversify; non-traditional jurists are more likely to join courts via appointment, particularly when a court is either all White or all male (Holmes and Emrey 2006). However, this propensity recedes after the initial appointment (Bratton and Spill 2002). Ultimately, interim appointments bypass non-traditional candidates' lower propensity to seek office (e.g., Nguyen 2019) and avoid the crowded primaries they often face (Eugenis 2021). However, appointments depend on governors' goals and the institutional contexts they face (Golezhauser 2011; Vining, Bullock, and Boldt 2023).

State supreme court appointments are inherently political (Vining, Bullock, and Boldt 2023). So, it is important to ask what kinds of governors see political benefits in appointing non-traditional jurists. It is beneficial to look to literature on governors appointing other state officials and the president's appointment of federal judges. Since at least the 1970s, Democrats and Republicans have viewed diversity differently (Wolbrecht 2000). The Democratic Party is historically a coalition of identity groups and sees electoral and normative value in diversifying the bench (Bratton and Spill 2002; Grossmann and Hopkins 2015). Republicans are more concerned with ideological purity.⁷ This extends to the way Republican presidents increasingly rely on organizations like the Federalist Society to vet judicial nominees (Bird and McGee 2023; Hollis-Brusky 2014).

Critically, it is more difficult to predict non-traditional candidates' ideological positions than "traditional" White male jurists (Hofer and Achury 2021). Moreover, conservatives are more likely to see non-traditional jurists as biased (Ono and Zilis 2022, 2023) and women broadly are often perceived as more liberal than men (Badas, Sanders, and Stauffer 2025; King and Matland 2003). Given appointments allow governors the chance to credit claim (e.g., Valdini and Shortell 2016), Democratic governors are more likely to appoint women and minorities across a range of offices than Republicans (Ricucci and Saidel 2001). Republicans likely see little utility in appointing candidates unattractive to their base (e.g., Kaslovsky, Rogowski, and Stone 2021). To this end, Republican presidents often "anchor" diversity by only appointing non-traditional jurists to seats vacated by other non-traditional jurists. Democrats, however, tend to "expand" diversity by appointing non-traditional jurists to previously "traditional" seats (King, Schoenherr, and Ostrander 2025). Accordingly,

Hypothesis 1 *Democratic governors are more likely to appoint non-traditional jurists than Republican governors.*

Even if a governor wants to appoint a non-traditional jurist, as we argue Democratic governors do, institutional context may not allow it (e.g., Bratton and Spill 2002; Golezhauser 2011; Hurwitz and Lanier 2008). Just as states differ in selection mechanisms broadly, there is variation in how vacancies are filled. Though governors make the final decision on interim appointments in all electoral states save for three,⁸ their choice set varies. Some governors are unrestrained and may nominate anyone

⁶In 2016, every member of the Georgia, Minnesota, and North Dakota supreme courts initially took office via interim appointment (Gibson and Nelson 2021).

⁷This is vividly illustrated by the sentiment that the Republican Party must take pains to avoid jurists in the mold of Justice David Souter, whose ideological drift disappointed many Republicans that hoped he would be a reliably conservative voice (e.g., Yarbrough 2005).

⁸In Illinois, Indiana, and Louisiana, the state supreme court makes interim appointments (Holmes and Emrey 2006).

they choose; others are restricted to a list furnished by a nominating commission. The latter is akin to merit selection (e.g., Golezhauser 2018a). Importantly, merit selection often disadvantages non-traditional potential nominees (Arrington 2021; Golezhauser 2011; Graham 1990).

In merit selection systems, women and racial minorities are less likely to be shortlisted by nominating commissions and are thus excluded from gubernatorial consideration (Golezhauser 2011).⁹ This is a function of the screening process; merit commissions, staffed by elites, are likely to value traits non-traditional candidates likely lack (Baker *et al.* 2024; Hurwitz and Lanier 2008). Relatedly, diverse attorneys are often overlooked by elites for career opportunities, which makes them attractive judicial candidates later on (e.g., Badas, Sanders, and Stauffer 2025). In a sense, merit selection provides for “elite control” (Graham 1990).¹⁰ Consequently, those who do not fit the traditional image of a judge are less likely to be shortlisted.¹¹ When minorities do succeed, they must often have more qualifications than their similarly situated White and male colleagues (Anzia and Berry 2011; Haire and Moyer 2015; Moyer, Harris, and Solberg 2022). Put more bluntly, nominating commissions serve as gatekeepers hindering diversification (e.g., Verba, Schlozman, and Brady 1995). Accordingly,

Hypothesis 2 *Democratic governors with unrestrained choices are more likely to appoint non-traditional jurists than those bound by nominating commissions.*

Thus far, we have discussed non-traditional jurists collectively. But diversity is not monolithic (Holmes and Emrey 2006; Martin and Pyle 2002). Judicial behavior varies across subpopulations (see, for instance, Hofer and Casellas 2020; Songer, Davis, and Haire 1994) as do the relative political benefits for governors appointing jurists with a given background at a particular time (see, for instance, Achury *et al.* 2022; Evans *et al.* 2017; Scherer and Curry 2010). To illustrate, women now make up just under half of all state supreme court justices (Merriman, Isozaki, and Bannon 2024) and voters have no preference for male over female jurists (Kennedy, Nelson, and Heidt-Forsythe 2025). This is not, however, true for racial minorities in non-judicial offices (Rhinehart and Geras 2020). Thus, the electoral advantage for appointing someone of a given background may wax and wane with time as governors see political benefit or liability in appointing non-traditional jurists (Bratton and Spill 2002; Holmes and Emrey 2006; Nixon and Goss 2001).

Governors often find great utility in appointing non-traditional candidates to “be the first” of a given background on a court (Bratton and Spill 2002). This effect is enhanced in the aftermath of national political events drawing attention to judicial diversity (e.g., the appointment of Justices Sandra Day O'Connor and Clarence Thomas to the US Supreme Court) (Golezhauser 2011). Once a given state bench initially diversifies, the relative value of appointing non-traditional candidates for

⁹Women are at parity with men at the appointment stage. This, of course, requires making the initial shortlist (Golezhauser 2011).

¹⁰There is further evidenced by work finding non-traditional jurists receive lower ABA scores (Sen 2014) and worse judicial performance evaluations (Gill, Lazos, and Waters 2011).

¹¹Arrington (2021) finds merit systems, which are often communicated as promoting qualifications over politics, make the public more accepting of less non-traditional jurists when informed selection is based on merit rather than politics.

governors lessens (Hurwitz and Lanier 2003). While diverse identities of all kinds are certainly salient in America's evolving political landscape, a subset of identities is increasingly consequential. For example, as more Hispanics join the bench, scholars gain a better understanding of their approach to decision-making and its consequences for legitimacy (Evans *et al.* 2017; Hofer and Casellas 2020). There is also growing awareness of intersectional identities (Collins and Moyer 2008; Kang *et al.* 2020). Briefly, the experiences of intersectional people (e.g., Black women or Latinas) cannot simply be explained by one constituent identity in isolation or as an additive sum (Goelzhauser 2024). Rather, intersectional identities lead to altogether unique approaches to decision-making (González, Fairbanks, and Gleason 2024; Szmer, Christensen, and Kaheny 2015).

While there is great value in understanding the experiences of intersectional persons in the legal profession (Collins, Dumas, and Moyer 2017), this is historically difficult to explore at state supreme courts because intersectional jurists are “woefully underrepresented” in the legal profession broadly and on the bench specifically (Johnson 2021). In recent years, increased diversification across all levels of the judiciary makes it possible to explore the pathways intersectional jurists take to the bench (Goelzhauser 2024; González, Fairbanks, and Gleason 2024; Merriman, Isozaki, and Bannon 2024). Accordingly, we expect to find the predictors of non-traditional jurists taking the bench to vary based on identity and time. Accordingly,

Hypothesis 3 *The relative propensity for governors to appoint non-traditional jurists varies by time and jurist identity.*

Data and methods

To test our expectations, we utilize Goelzhauser's (2016) dataset of state supreme court justices and their backgrounds. We augment this with updates compiled by Merriman, Isozaki, and Bannon (2024) and our original updates to extend the data to 2023. Since non-traditional jurists were remarkably rare in the 1970s, we begin our analysis in 1980 (e.g., Haire and Moyer 2015). We limit our focus to the 19 state supreme courts utilizing either partisan or non-partisan elections in which the governor is empowered to fill vacancies and appointees can subsequently stand for election.¹² With the individual jurist as the unit of analysis, we have 535 observations from 1980 to 2023. Since we posit the political and institutional context is critical to appointments, we combine our justice-level data with governor demographics from when the vacancy occurred (Klarner 2013).¹³

Since paths to the bench vary by demographic background (Holmes and Emrey 2006; Hurwitz and Lanier 2003; Martin and Pyle 2002), we utilize multiple dependent variables and models. Following the lead of prior work, our dependent variables measure whether a given jurist is White, Black, male, or female (Bratton and Spill 2002; Holmes and Emrey 2006). We also note intersectional identities (White men, White women, Black men, intersectional women) (Collins and Moyer 2008;

¹²Texas has two state supreme courts. The Texas Court of Criminal Appeals is the court of last resort for criminal matters. The Texas Supreme Court handles civil matters. We treat them as two distinct courts (Alozie 1999).

¹³We update these data through 2023.

Szmer, Christensen, and Kaheny 2015).¹⁴ We create all of these measures using Goelzhauser's (2016, 2024) coding rules.¹⁵

We evaluate Hypothesis 1 via two measures. First, we use a binary marker for justices initially taking the bench via interim appointment. In a similar manner, we note jurists joining the bench during a Democratic gubernatorial administration with a binary marker.¹⁶ Since the hypothesis is conditional, we interact these two measures. We test Hypothesis 2 by noting states where governors have unrestrained choice in interim appointments with a binary marker (Goelzhauser 2011). We subsequently interact this with the Democratic governor measure. We test Hypothesis 3 by noting the year the jurist took the bench and interacting it with the initial appointment measure.

We include several control variables suggested by previous literature. State supreme courts vary in level of professionalism and thus relative prestige (Hurwitz and Lanier 2003); we include state court professionalism (Squire and Butcher 2021).¹⁷ More seats on a court create more opportunities for appointing non-traditional jurists (Goelzhauser 2011); we include the total number of seats on each court. Since non-traditional candidates are disadvantaged by partisan elections (Gibson and Nelson 2021), we include a dichotomous measure noting states utilizing partisan, as opposed to non-partisan, elections. National events, such as the appointment of non-traditional jurists, increase the probability of state-level diverse appointments (see, for instance, Escobar-Lemmon *et al.* 2021; Goelzhauser 2011). We include a series of binary markers set to "1" after a non-traditional jurist of a given identity has joined the US Supreme Court.¹⁸

Since governors and other elites generally look for the typical markers of a "good" judge (Baker *et al.* 2024; Martin and Pyle 2002; Moyer, Harris, and Solberg 2022), we include a series of binary measures noting whether the appointee previously served as a prosecutor or judge (Harris and Sen 2026; Merriman, Isozaki, and Bannon 2024). Because governors may face pressure to appoint non-traditional jurists to replace departing non-traditional jurists (King, Schoenherr, and Ostrander 2025), we include a binary marker noting whether the departing justice is non-traditional (Goelzhauser 2016; 2024).¹⁹ Because there may be an in-group bias to appoint those who share a common identity (Ricucci and Saidel 2001), we include a binary marker noting

¹⁴There are several other identities we could explore, such as Hispanics, Hispanic men, Hispanic women, and Asian Americans. Given the low numbers of jurists with these identities (Merriman, Isozaki, and Bannon 2024) and low variation in paths to the bench (see, for instance, Martin and Pyle 2002), we cannot include these in our predictive models. We do, however, discuss them in the descriptive results.

¹⁵A jurist is intersectional if she is female and not White (e.g., Crenshaw, 1990–1991; Goelzhauser 2024; Kang *et al.* 2020; Szmer, Christensen, and Kaheny 2015).

¹⁶We considered an alternative continuous ideology measure. Unfortunately, the closest measures are state policy mood variables (e.g., Berry *et al.* 1998). These measures capture state institutional ideology broadly rather than for the governor specifically. This is problematic as it imposes state-level measures on individual actors; this is particularly concerning for governors with unconstrained choice. Additionally, the most contemporaneous of these measures stops in 2020 (Lagodny *et al.* 2023) and would drop 33 observations. For these reasons, we utilize the binary measure.

¹⁷There are slight differences between the initial Squire (2008) measure and the later Squire and Butcher (2021) measure. We utilize the latter. In an abundance of caution, we run a control model with the older measure. The results are substantively similar.

¹⁸For Black (men): Clarence Thomas. (White) Women: Sandra Day O'Connor. Intersectional: Sonia Sotomayor. We do not include a national event for White or (White) male jurists.

¹⁹We do not include this in the White, male, or White male models.

whether the governor is female for the female, White female, and intersectional models.²⁰ Finally, since there is increased pressure and electoral benefit to appoint the first jurist from a given group (Bratton and Spill 2002; Holmes and Emrey 2006), we include a dichotomous marker noting whether a member of a given group has previously served on a given court.²¹

Since our dependent variables are dichotomous, we utilize logistic regression. To account for state-level idiosyncrasies (e.g., Kritzer 2015), we cluster standard errors on the court.

Results

We find support for our expectations. The predictors for interim appointment vary by jurist identity. In general, Democratic governors are more likely to appoint some minority groups. Though this is dependent on the institutional context, Democratic governors are more likely to appoint non-traditional jurists when unconstrained. Additionally, the propensity for any group to be more likely appointed by governors waxes and wanes with time. Before turning to our predictive results, we explore descriptive statistics.

Descriptive results

In recent years, state supreme courts have become increasingly diverse. Figure 1 shows the average number of non-traditional jurists on state supreme courts in electoral states from 1979 to 2023. The solid line depicts the average percentage of female jurists. The long-dashed line shows non-White jurists, and the short-dashed line displays intersectional female jurists. Throughout the early 1980s, women made up less than 5% of all jurists on state supreme courts. Their numbers grew gradually at first, reaching 10% by the late 1980s. In the 1990s and early 2000s, women's presence increased rapidly (save for periodic dips notably in the mid-2000s). By 2023, women held over 40% of all seats. Non-White and intersectional female jurists have grown more slowly. In the early 1980s, both comprised a remarkably small portion of jurists on state supreme courts. Non-White jurists grew steadily from the mid-1980s to the mid-1990s before dipping throughout the latter half of the 1990s. By 2023, non-Whites make up just over 10% of jurists. Intersectional jurists remain quite rare, only reaching 5% by the mid-2010s. By 2023, they remain less than 10%.²²

It is also important to note how non-traditional jurists reach the bench. Table 1 shows the total number of jurists by demographic background and the paths taken to state supreme courts in electoral states. We also include groups we are unable to examine in the predictive models such as Hispanics, Hispanic men, Hispanic women,

²⁰Ideally, we would also include a Black governor measure. However, there have only been six Black governors in US history. None served in states with judicial elections in which governors can appoint interim justices within the time bounds of our study. The literature is mixed as to whether female governors should be more likely to appoint non-traditional jurists (see, for instance, Brady *et al.* 2015). In an abundance of caution, we run control models with the female governor measure included in the “male” models. The results are substantively unchanged.

²¹We do not include this in the White, male, or White male models.

²²The pattern of overall diversification is similar in non-electoral states, although the overall percentages are lower. We present descriptive statistics for non-electoral states in the [Supplementary Material](#).

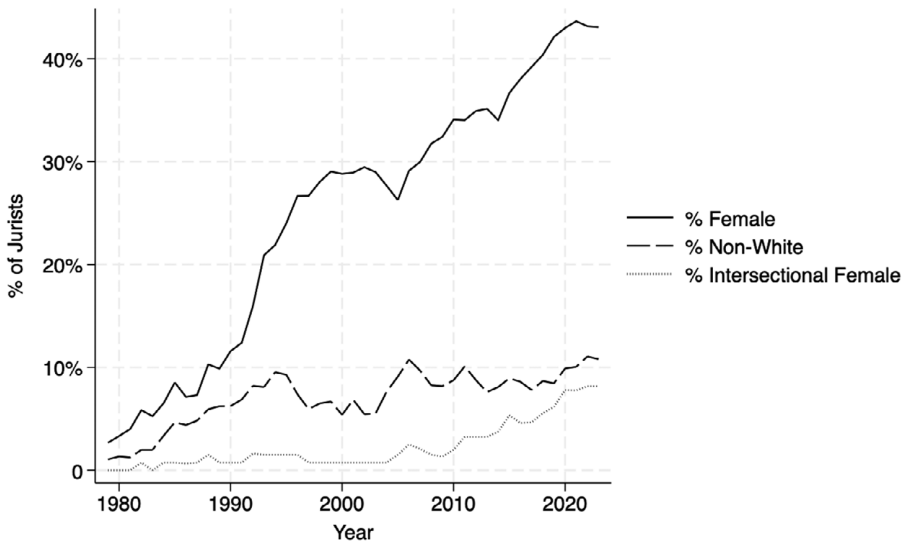


Figure 1. Percentage of non-traditional jurists on state supreme courts in electoral states, 1979 to 2023.

Table 1. State supreme court jurists by initial path to bench

Identity	Total jurists	Number appointed	% appointed
All jurists	535	226	42%
White	475	176	37%
White men	340	124	36%
White women	135	52	39%
Black	42	34	81%
Black men	26	20	77%
Black women	16	14	88%
Hispanic	14	11	79%
Hispanic men	7	6	86%
Hispanic women	7	5	71%
All intersectional women	26	23	88%
Asian American	4	4	100%
Native American	1	1	100%

Note: We only include jurists from the courts included in our analysis.

Black women, Asian Americans, and Native Americans. Just over 40% of justices took the bench via interim gubernatorial appointment (see also Gibson and Nelson 2021), but these numbers vary considerably by identity. Only 37% of Whites (both men and women combined) are appointed. Women, White men, and White women closely mirror these percentages. However, rates of gubernatorial appointment increase substantially for racial minorities.

About 80% of Black state supreme court jurists are initially appointed by the governor. While 77% of Black men are appointed, almost 90% of Black women are. Shifting our focus to Hispanic jurists, we note the opposite pattern. As a whole, 79% of Hispanic jurists are appointed. While 86% of Hispanic men are appointed, just 71% of Hispanic women are. 89% of intersectional women (women of color) are

appointed. Turning focus to Asian Americans and Native Americans, we note *all* of these jurists are initially appointed. This is likely a function of their low numbers on state supreme court benches overall.

Our predictive models appear in Table 2. At first glance, they appear underwhelming; the Democratic governor and institutional constraints measures are never significant. The initially appointed and year measures are only significant in about half of the models. However, our hypotheses are conditional. Accordingly, we cannot assess them like traditional additive terms. Rather, both constituent terms must simultaneously vary for evaluation. This is best accomplished graphically (Brambor, Clark, and Golder 2006).²³

In Figure 2, we show the interaction between the governor's party and the method of taking the bench (Hypothesis 1) for White, Black, male, and female jurists. In each panel, the *y*-axis depicts the marginal effect of appointment on taking the bench. The left point estimate on the *x*-axis depicts Republican governors. The right shows Democratic governors. The spiked lines represent 95% confidence intervals; should the spike pass through the reference line at $y = 0$, the interaction is not significant in that configuration.

Whites are less likely to be appointed by both Republicans and Democrats; although the substantive size of the effect is more pronounced for Democrats. Shifting from a Republican to Democratic governor decreases the predicted probability of White jurists being appointed from -0.074 to -0.291 . Blacks are more likely to reach the bench via appointment under Democratic (but not Republican) governors: The predicted probability of appointment is 0.213 under Democratic governors. Male and female jurists are never more likely to be appointed by either Democrats or Republicans. Figure 3 follows the same layout and logic as Figure 2, but for intersectional identities. Under Democratic governors, the predicted probability of Black men being appointed is 0.102 . Both Republican and Democratic governors have a higher propensity to appoint intersectional women; but this is more pronounced for Democrats. Moving from a Republican to Democratic governor increases the predicted probability of appointment from 0.026 to 0.152 . The interactions for White men and White women are never significant. Collectively, Figures 2 and 3 provide support for Hypothesis 1.

Figure 4 is structured in much the same way as Figures 2 and 3, but it shows the interaction between Democratic governors and institutional constraints for White, Black, male, and female jurists (Hypothesis 2). The predicted probability of Democrats appointing Whites decreases by 0.149 when unconstrained. The opposite is true for Blacks; the predicted probability of Democrats appointing Blacks increases to 0.103 when unconstrained. At no point are the interactions significant for male or female jurists.

Figure 5 utilizes the same logic as Figure 4, but for White men, Black men, White women, and intersectional women. The predicted probability of Democrats appointing White men falls to -0.228 when unconstrained. At no point is the interaction for White women significant. Democrats have a higher predicted probability of appointing Black men (0.070) when unconstrained. Democrats are always more likely to appoint intersectional women. But they are more likely to do so when unconstrained;

²³ A number of control variables reach statistical significance. For the sake of parsimony, they are discussed in the Supplementary Material.

Table 2. Predictors of state supreme court justices taking bench

	White	Black	Male	Female	White male	Black male	White female	Intersectional
Democratic governor	0.669 (0.706)	−1.244 (0.885)	−0.109 (0.231)	0.070 (0.222)	−0.038 (0.188)	−1.775 (1.422)	0.095 (0.213)	−0.663 (1.150)
Initially appointed	−3.188 (42.670)	104.411 (77.138)	−29.736 (20.853)	40.690* (21.356)	−63.675*** (19.587)	148.804* (85.761)	94.687*** (29.092)	−106.612 (126.833)
Democratic governor × initially appointed	−1.816* (1.043)	2.748* (1.468)	0.087 (0.641)	−0.199 (0.633)	−0.209 (0.465)	2.474 (2.250)	−0.917 (0.715)	2.435 (1.604)
Unrestrained in appointment	0.936 (0.713)	−0.351 (0.732)	−0.131 (0.360)	0.037 (0.397)	0.334 (0.350)	−0.769 (0.960)	0.053 (0.397)	−0.216 (0.666)
Democratic governor × unrestrained in appointment	−1.308* (0.733)	0.851 (1.007)	−0.414 (0.687)	0.495 (0.686)	−0.931 (0.611)	1.820 (1.177)	0.599 (0.762)	0.436 (0.908)
Year taking bench	−0.030 (0.025)	0.047 (0.038)	−0.053*** (0.007)	0.052*** (0.009)	−0.052*** (0.007)	0.012 (0.044)	0.049*** (0.010)	0.029 (0.084)
Initially appointed × Year taking bench	0.001 (0.021)	−0.052 (0.039)	0.015 (0.010)	−0.020* (0.011)	0.032*** (0.010)	−0.074* (0.043)	−0.047*** (0.014)	0.054 (0.063)
Court professionalism	−1.556 (2.492)	2.337 (2.251)	−1.898** (0.946)	1.891** (0.856)	−1.494 (1.417)	3.123 (2.779)	1.319** (0.657)	5.621*** (1.434)
Seats on court	−0.241 (0.173)	0.113 (0.131)	0.087 (0.099)	−0.097 (0.097)	0.021 (0.113)	0.151 (0.181)	−0.121 (0.087)	0.188 (0.165)
Partisan election state	−0.606* (0.357)	0.518 (0.381)	0.456* (0.249)	−0.483** (0.238)	0.202 (0.283)	0.532 (0.382)	−0.510** (0.215)	0.200 (0.495)
Previous judicial experience	−0.411 (0.348)	−0.108 (0.416)	−0.492** (0.215)	0.516** (0.221)	−0.418** (0.170)	−0.210 (0.468)	0.337 (0.239)	1.174*** (0.418)
Previous prosecutorial experience	0.303 (0.416)	−0.141 (0.423)	0.100 (0.210)	−0.105 (0.205)	0.170 (0.229)	−0.521 (0.469)	−0.106 (0.177)	−0.403 (0.528)
African American vacancy		1.147*** (0.431)						
Post-Thomas confirmation		0.742 (0.652)				1.359* (0.798)		
Prev. Black justice		−0.665 (0.437)						

(Continued)

Table 2. (Continued)

	White	Black	Male	Female	White male	Black male	White female	Intersectional
Female vacancy				0.347 (0.230)				
Post-O'Connor confirmation				1.108* (0.619)			1.223** (0.569)	
Prev. female justice				−0.456 (0.290)				
Female governor				0.329 (0.391)		−0.919 (1.046)	0.334 (0.396)	−0.227 (0.606)
Black male vacancy						2.035*** (0.747)		
Prev. Black male justice						−1.302** (0.643)		
White female vacancy							0.252 (0.269)	
Prev. White female justice							−0.365 (0.273)	
Intersectional woman vacancy								0.542 (0.680)
Post-Sotomayor confirmation								1.476* (0.887)
Previous intersectional justice								−1.008 (0.626)
Constant	66.625 (49.222)	−99.575 (74.847)	108.249*** (15.045)	−106.636*** (17.610)	105.923*** (14.433)	−30.322 (86.781)	−100.918*** (20.004)	−69.164 (169.474)
AIC	312.728	259.670	629.696	631.061	670.392	190.211	599.939	170.581
BIC	368.397	328.186	685.366	703.859	726.062	263.010	672.737	239.097
Area under ROC	83.3%	83.9%	69.0%	69.7%	69.0%	85.0%	66.7%	89.9%
Observations	535	535	535	535	535	535	535	535

Note: Standard errors in parentheses clustered on court. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$.

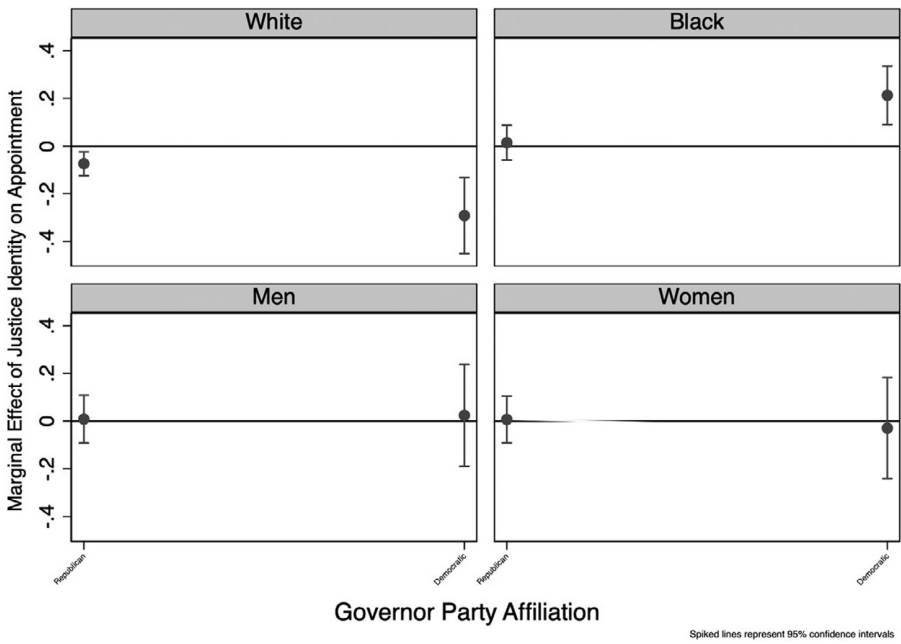


Figure 2. Appointment of state supreme court jurists by identity by gubernatorial party, 1980 to 2023.

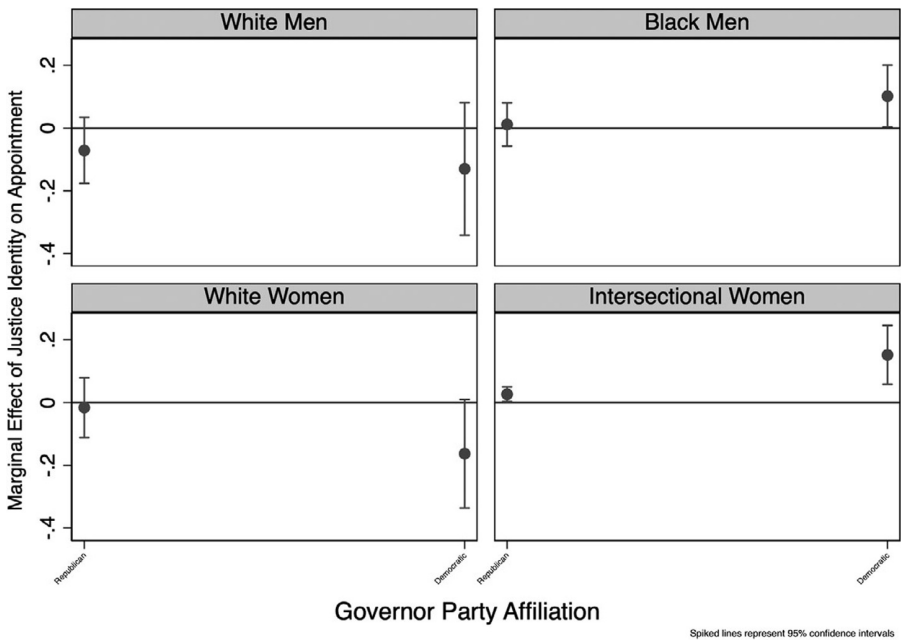


Figure 3. Appointment of state supreme court jurists by identity by gubernatorial party, 1980 to 2023.

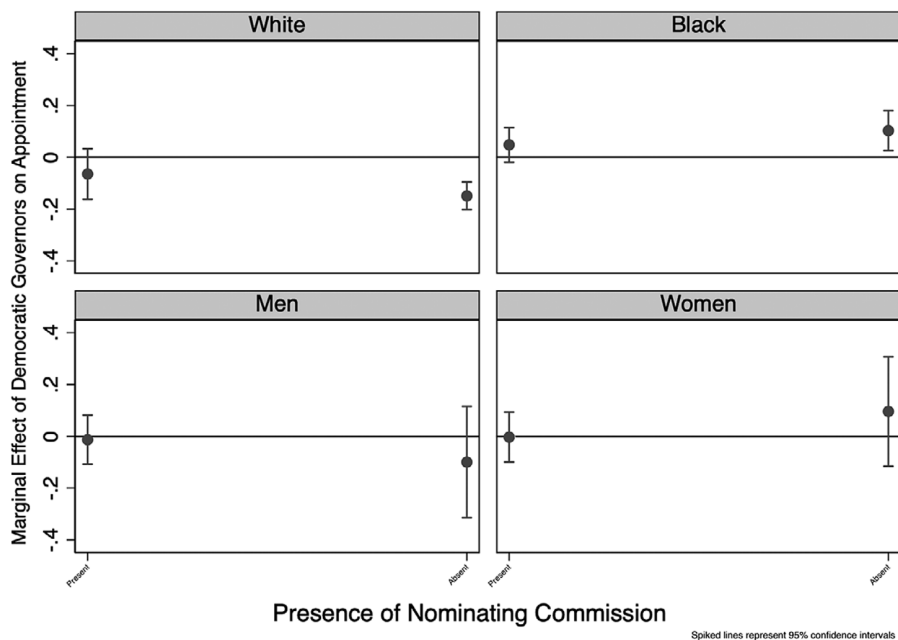


Figure 4. Appointment of state supreme court jurists by Democratic governors under nomination constraints, 1980 to 2023.

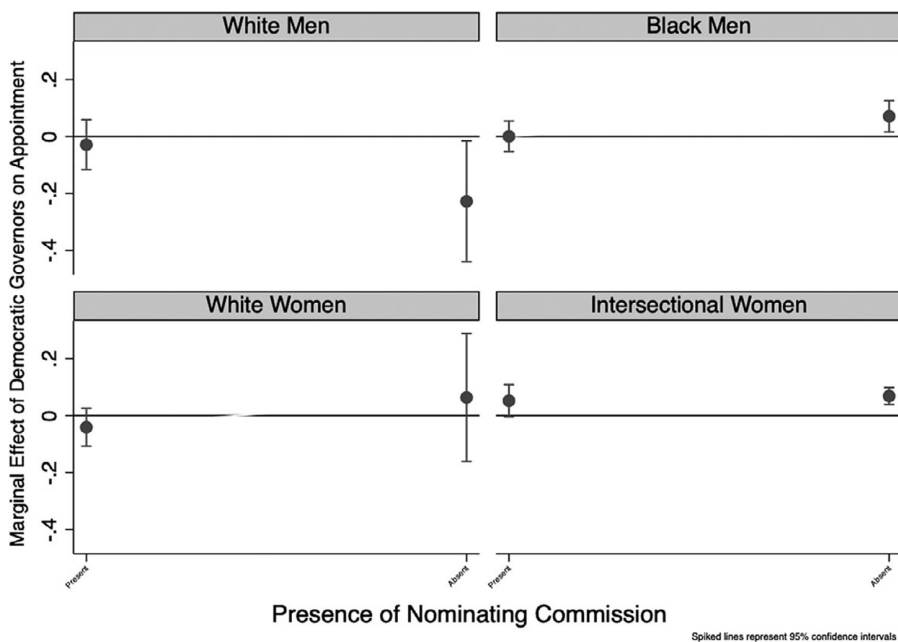


Figure 5. Appointment of state supreme court jurists by Democratic governors under nomination constraints, 1980 to 2023.

moving from constrained to unconstrained increases the predicted probability of appointing intersectional women from 0.052 to 0.068. Collectively, Figures 4 and 5 indicate Democratic governors who would otherwise appoint a non-traditional jurist are unable to do so when faced with nominating commissions. This provides support for Hypothesis 2.

In Figure 6, we show the interaction between appointment and year joining the bench for White, Black, male, and female jurists (Hypothesis 3). The x-axis shows the year the justice takes the bench. The solid sloped line shows the marginal effect of the year on a jurist of a given background being appointed. Should the reference line at $y = 0$ be included in the 95% confidence intervals (denoted by dashed lines), the interaction is insignificant at that level. Whites are always less likely to be appointed than elected, although this effect becomes more pronounced with time. Whereas the predicted probability of appointment is -0.114 in 1980, it falls to -0.244 in 2020. The predicted probability of Blacks being appointed drops from 0.143 in 1980 to 0.099 in 2000. By 2010, the interaction was no longer significant. For men and women, the interactions are never significant.

Figure 7 utilizes the same logic as Figure 6, but for White men, Black men, White women, and intersectional women. White men are less likely to be appointed in 1980, although by 2000 the predicted probability increases from -0.193 to -0.116 . By 2010, the interaction is no longer significant. Black men follow the opposite track; they are more likely to be appointed prior to 2010, although the predicted probability drops from 0.167 in 1980 to 0.050 in 2000. The interaction for White women is not significant until 2000. After that, White women became less likely to be appointed from 2010 (-0.167) to 2020 (-0.278). Intersectional women are more likely to take

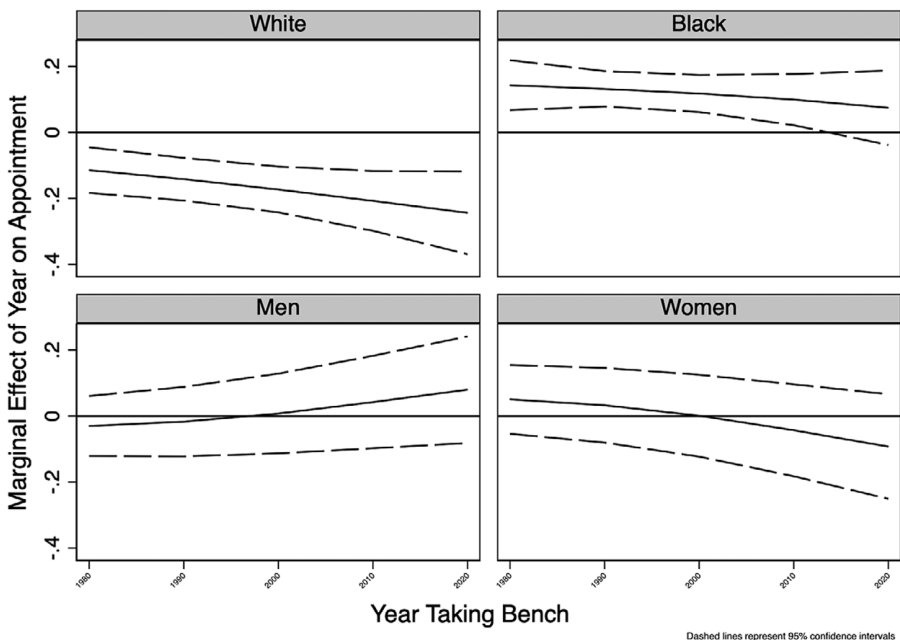


Figure 6. Appointment of state supreme court jurists by identity over time, 1980 to 2023.

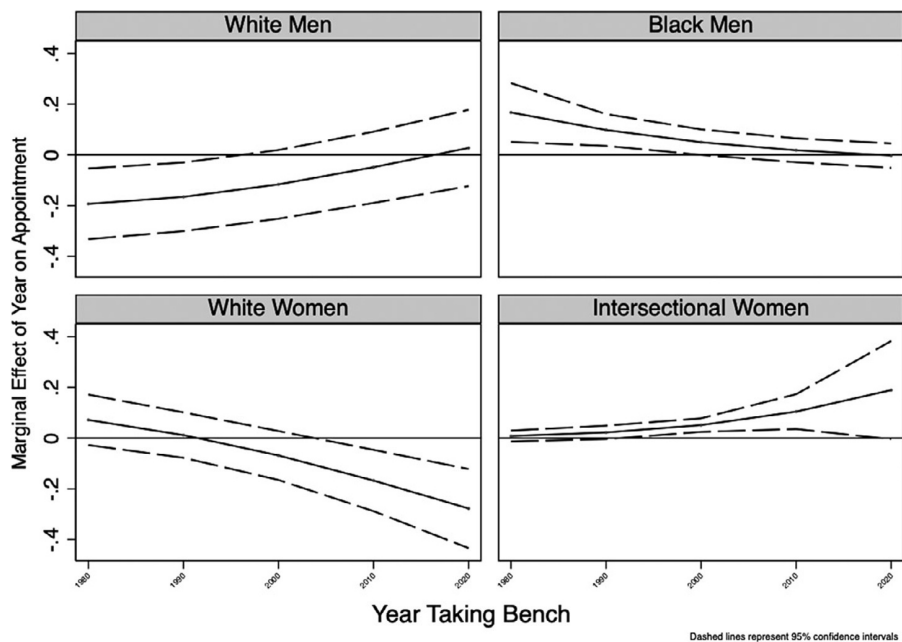


Figure 7. Appointment of state supreme court jurists by identity over time, 1980 to 2023.

the bench via appointment but only after 2000. Their predicted probability is 0.051 in 2000 before increasing to 0.104 in 2010. In 2020, the interaction barely misses conventional levels of statistical significance ($p = 0.06$) and has a predicted probability of 0.189. Collectively, Figures 6 and 7 provide support for Hypothesis 3.

Discussion

A court's legitimacy and the contours of its case law depend, in part, on its composition (Evans *et al.* 2017; Ono and Zilis 2022; 2023; Scherer and Curry 2010). For all its normative benefits, diversification is a slow process which, even in electoral states, often depends on gubernatorial appointments (Bratton and Spill 2002; Holmes and Emrey 2006; Hurwitz and Lanier 2008). Gubernatorial appointments, while important for courts, state executive agencies, and the US Senate, are understudied (Bernick 2016). We address this gap by demonstrating, even after initial diversification, appointments are a key way non-traditional jurists reach the bench. Given minorities face difficulty in statewide races (Rhinehart and Geras 2020) and women are less likely to run for office (Nguyen 2019), gubernatorial appointments represent a primary way benches can reflect the populations they serve.

Appointments depend on several factors which hinge on the governor. Democratic governors are more likely to appoint non-traditional jurists, but their ability to do so is institutionally constrained. Additionally, the relative propensity for any given group to be appointed varies with time. This also varies by sub-population; there is no single unified explanation for appointments across identity groups. Our results

contribute to our understanding of judicial selection and governors' appointment calculus. Yet, our findings also pose several avenues for future research.

We find Democratic governors are more likely to appoint non-traditional jurists; but their ability to do so is constrained by the presence of a nominating commission. But there are certainly instances where non-traditional jurists advance to the selection stage; Lanier and Handberg (2011) note more diverse nominating commissions produce more diverse shortlists. Their study, limited to Florida appellate courts from 1991 to 2003, suggests a contagion effect (e.g., Boyd, Epstein, and Martin 2010). Briefly, nominating commission diversity may "level the playing field." As the legal profession continues to diversify at higher levels (American Bar Association 2024), it follows nominating commissions should diversify too. This is consequential for the shortlists presented to governors for both interim appointments in electoral and merit selection states. We encourage future scholars to explore this further, with particular attention to variation based on identity.

A key advantage of appointment is appointed jurists may then run for reelection with an incumbency advantage (Kritzer 2015; 2023). While not as extensive as the incumbency advantage enjoyed by initially elected jurists (Curry and Romano 2018), it is possible incumbency advantage varies based on jurist identity. This is illustrated by Chief Justice Sears. While Supreme Court of Georgia races are historically sleepy affairs (e.g., Kritzer 2015), Sears faced a bruising electoral challenge in 2004 (Davis 2017). Would the race have been as contentious if she were White or male? We encourage future scholars to explore how identity shapes the electoral fortunes of initially appointed jurists across identities.

We find Democratic governors are more likely to appoint non-traditional jurists. This finding may be rooted in the Democratic Party's nature as a coalition of identity groups (Bratton and Spill 2002; Grossmann and Hopkins 2015) and the party's relative focus on diversity (Wolbrecht 2000). So, this finding may be a function of Democrats having a "deeper bench" for non-traditional candidates. While this is historically true, Donald Trump's strong showing with Hispanics and Blacks (e.g., Petty, Magilligan, and Bailey 2022) may soon give Republican governors a more diverse set of potential nominees. This could, however, be exacerbated by non-traditional judicial candidates' "leaky pipeline" (e.g., Collins and Moyer 2008). We encourage future scholars to explore this at both the state and federal levels.

State supreme courts are rapidly diversifying; what had once been studied just in terms of race and sex has since expanded to a more ecumenical list of identities (Goelzhauser 2021; 2024; González, Fairbanks, and Gleason 2024). While we distinguish Whites into male and female categories and racial minorities into Black men and intersectional women, other groupings are excluded from our predictive analysis because low numbers and relative distribution on key independent variables make statistical modeling impossible. Much as our analysis of intersectional jurists would not have been possible at the time Bratton and Spill (2002) conducted their study; future scholars will be better situated to explore an even more diverse group of identities such as Latinx and Asian Americans.

Time should, presumably, allow scholars to examine a greater number of identities. However, that approach requires potentially waiting years. In the interim, scholars may find purchase in exploring the conditions under which non-traditional jurists are appointed to state trial courts and intermediate courts of appeals (e.g., Hurwitz and Lanier 2003; Lanier and Handberg 2011). Such a study has clear normative value: Lower state courts handle a greater caseload than their respective apex courts and are often the pool for apex court appointments (e.g., Alozie 1996;

Goelzhauser 2018b). We do, however, note an important caveat: Courts at different levels, particularly trial courts, have different diversification processes (Williams 2007). So, exploring lower courts augments rather than replaces future studies exploring state supreme courts.

Finally, and perhaps most broadly, our results demonstrate the critical role governors play in state supreme court diversification in electoral states. Despite the governor's position as the state's chief executive, relatively little is known about her appointment power generally (Bernick 2016; Riccucci and Saidel 2001). While our focus is on judicial appointments, we encourage scholars to explore appointments broadly. This is particularly urgent for US Senate appointments. These have key structural differences from state supreme court appointments (e.g., Cooper, Knotts, and Ragusa 2016). Accordingly, by exploring Senate appointments in tandem with state supreme court appointments, scholars can arrive at a broad ecumenical understanding of how diversity impacts gubernatorial appointments across institutional contexts.

State supreme courts are the court of last resort for the overwhelming majority of disputes in the United States. While scholars have explored how various selection mechanisms advance or inhibit diversity on the bench, less attention has been paid to one of the central ways non-traditional jurists reach the bench in electoral states: interim appointments to complete an unexpired term. Drawing on data spanning 1980 to 2023, we find Democratic governors are more likely to appoint non-traditional jurists than Republicans particularly when unconstrained by electoral commissions. Critically, these results are not constant over time nor uniform across all identities. This highlights the unique aspects of different identities and warrants future research.

Supplementary material. The supplementary material for this article can be found at <http://doi.org/10.1017/spq.2026.10018>.

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References

- Abraham, Henry J. 2008. *Justices, Presidents, and Senators: A History of U.S. Supreme Court Appointments from Washington to Bush II*, 5th edition. Lanham, MD: Rowman & Littlefield.
- Achury, Susan, Jason P. Casellas, Scott J. Hofer, and Matthew Ward. 2022. "The Impact of Racial Representation on Judicial Legitimacy: White Reactions to Latinos on the Bench." *Political Research Quarterly* 76(1): 158–72.
- Alozie, Nicholas O. 1996. "Selection Methods and the Recruitment of Women to State Courts of Last Resort." *Social Science Quarterly* 77(1): 110–26.
- Alozie, Nicholas O. 1999. "The Recruitment of Blacks to State Courts of Last Resort." In *Race and Ethnicity in Comparative Perspective*, ed. G.A. Persons, 173–87. New Brunswick, NJ: Transaction Publishers.
- American Bar Association. 2024. "Women in the Legal Profession." <https://www.americanbar.org/news/profile-legal-profession/women/>. (Accessed December 21, 2025).
- Anzia, Sarah F., and Christopher R. Berry. 2011. "The Jackie (and Jill) Robinson Effect: Why Do Congresswomen Outperform Congressmen?" *American Journal of Political Science* 55(3): 478–93.

- Arrington, Nancy B. 2021. "Judicial Merit Selection: Beliefs about Fairness and the Undermining of Gender Diversity on the Bench." *Political Research Quarterly* 74(4): 1152–67.
- Arrington, Nancy B. 2019. "Qualification, Selection, and Retirement Characteristics of Women, Minorities, and Minority-Women State Supreme Court Judges." In *Race, Gender, Sexuality, and the Politics of the American Judiciary*, eds. Samantha L. Hernandez and Sharon A. Navarro, 11–35. New York, NY: Cambridge University Press.
- Badas, Alex, Bailey K. Sanders, and Katelyn E. Stauffer. 2025. "The Role of Judge Gender and Ideology in Hiring Female Law Clerks." *Journal of Law and Courts* 13(2): 397–419.
- Badas, Alex and Katelyn E. Stauffer. 2019. "Michelle Obama as a Political Symbol: Race, Gender, and Public Opinion toward the First Lady." *Politics & Gender* 15(3): 431–459.
- Badas, Alex, and Katelyn E. Stauffer. 2023. "Gender and Ambition Among Potential Law Clerks." *Journal of Law and Courts* 11(1): 116–40.
- Baker, Matthew E., Christina L. Boyd, Aidan N. González, and Karson A. Pennington. 2024. "Race and Gender in Judicial Selection in the United States." In *Research Handbook on Judicial Politics*, eds. Michael P. Fix and Matthew D. Montgomery, 143–56. Cheltenham, UK: Edward Elgar Publishing.
- Baker, Matthew E., Christina L. Boyd, Jennifer Hickey, and Adam G. Rutkowski. 2024. "How the Politics of Federal Judicial Selection Affect Judicial Diversity and What This Means for Public Confidence in Courts." *Law and Contemporary Problems* 87: 85–118.
- Bernick, E. Lee. 2016. "Studying Governors over Five Decades: What We Know and Where We Need to Go?" *State and Local Government Review* 48(2): 132–46.
- Berry, William, Evan Ringquist, Richard Fording, and Russell Hanson. 1998. "Measuring Citizen and Government Ideology in the American States, 1960–93." *American Journal of Political Science* 42(1): 327–48.
- Bird, Christine C., and Zachary A. McGee. 2023. "Going Nuclear: Federalist Society Affiliated Judicial Nominees' Prospects and a New Era of Confirmation Politics." *American Politics Research* 51(1): 37–56.
- Bobo, Lawrence, and Franklin D. Gilliam. 1990. "Race, Sociopolitical Participation, and Black Empowerment." *American Political Science Review* 84(2): 377–93.
- Boyd, Christina L., Lee Epstein, and Andrew D. Martin. 2010. "Untangling the Causal Effects of Sex on Judging." *American Journal of Political Science* 54(2): 389–411.
- Brady, Laura M., Cheryl R. Kaiser, Brenda Major, and Teri A. Kirby. 2015. "It's Fair for Us: Diversity Structures Cause Women to Legitimize Discrimination." *Journal of Experimental Social Psychology* 57: 100–10.
- Brambor, Thomas, William Roberts Clark, and Matt Golder. 2006. "Understanding Interaction Models: Improving Empirical Analyses." *Political Analysis* 14(1): 63–82.
- Bratton, Kathleen A., and Rorie L. Spill. 2002. "Existing Diversity and Judicial Selection: The Role of Appointment Method in Establishing Gender Diversity in State Supreme Courts." *Social Science Quarterly* 83(2): 504–18.
- Campbell, David E., and Christina Wohlbrecht. 2006. "See Jane Run: Women Politicians as Role Models for Adolescents." *Journal of Politics* 68(2): 223–47.
- Collins, Todd A., Tao L. Dumas, and Laura P. Moyer. 2017. "Intersecting Disadvantages: Race, Gender, and Age Discrimination Among Attorneys." *Social Science Quarterly* 98(5): 1642–58.
- Collins, Todd, and Laura Moyer. 2008. "Gender, Race, and Intersectionality on the Federal Appellate Bench." *Political Research Quarterly* 61(2): 219–27.
- Cooper, Christopher A., H. Gibbs Knotts, and Jordan Ragusa. 2016. "The Constrained Governor: Exploring Gubernatorial Decision Making on Senate Appointments." *Political Research Quarterly* 69(3): 482–94.
- Crenshaw, Kimberle. 1990–1991. "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color." *Stanford Law Review* 43(6): 1241–1300.
- Curry, Todd A., and Mark S. Hurwitz. 2016. "Strategic Retirements of Elected and Appointed Justices: A Hazard Model Approach." *Journal of Politics* 78(4): 1061–75.
- Curry, Todd A., and Michael K. Romano. 2018. "Ideological Congruity on State Supreme Courts." *Justice System Journal* 39(2): 139–154.
- Davis, Rebecca Shriver. 2017. *Justice Leah Ward Sears: Seizing Serendipity*. Athens, GA: University of Georgia Press.
- Dolan, Julie. 2001. "Women in the Executive Branch: A Review Essay of their Political Impact and Career Opportunities." *Women & Politics* 22(4): 89–104.

- Escobar-Lemmon, Maria C., Valerie J. Hoekstra, Alice J. Kang, and Miki Caul Kittilson. 2021. "Breaking the Judicial Glass Ceiling: The Appointment of Women to High Courts Worldwide." *The Journal of Politics* 83(2): 662–74.
- Eugenis, Kate. 2021. "A Harder and Longer Process? Dispelling Myths About Women in the Judiciary." *Justice System Journal* 42(3–4): 271–90.
- Evans, Diana, J. L. Polinard Ana Franco, James P. Wenzel, and Robert D. Wrinkle. 2017. "Who's on the Bench? The Impact of Latino Descriptive Representation on U.S. Supreme Court Approval Among Latinos and Anglos*." *Social Science Quarterly* 98(5): 1233–49.
- Gibson, James L., and Michael J. Nelson. 2021. *Judging Inequality: State Supreme Courts and the Inequality Crisis*. Chicago, IL: Russell Sage Foundation.
- Gill, Rebecca D., Sylvia R. Lazos, and Mallory M. Waters. 2011. "Are Judicial Performance Evaluations Fair to Women and Minorities? A Cautionary Tale from Clark County, Nevada." *Law & Society Review* 45(3): 731–59.
- Goelzhauser, Greg. 2011. "Diversifying State Supreme Courts." *Law & Society Review* 45(3): 761–81.
- Goelzhauser, Greg. 2016. *Choosing State Supreme Court Justices: Merit Selection and the Consequences of Institutional Reform*. Philadelphia, PA: Temple University Press.
- Goelzhauser, Greg. 2018a. "Classifying Judicial Selection Institutions." *State Politics & Policy Quarterly* 18(2): 174–92.
- Goelzhauser, Greg. 2018b. "Does Merit Selection Work? Evidence from Commission and Gubernatorial Choices." *Journal of Law & Courts* 6(1): 155–87.
- Goelzhauser, Greg. 2021. "State Supreme Court Justices." Harvard Dataverse, V1, UNF:6:WXGDNM5FGSHYxrgueWCvEA== [fileUNF], <https://doi.org/10.7910/DVN/XJOKXO>
- Goelzhauser, Greg. 2024. "Intersectional Representation on State Supreme Courts." In *Open Judicial Politics*, eds. Rorie Spill Solberg and Eric Waltenburg. Corvallis, OR: Oregon State University Press.
- Goelzhauser, Greg, and Damon M. Cann. 2014. "Judicial Independence and Opinion Clarity on State Supreme Courts." *State Politics and Policy Quarterly* 14(2): 123–41.
- González, Aidan, Bailey R. Fairbanks, and Shane A. Gleason. 2024. "The Intersection of Law and Identity: Immutable Characteristics, Voter Preferences, and Strategic Voting on State Supreme Courts." In *Open Judicial Politics*, eds. Rorie Spill Solberg and Eric Waltenburg. Corvallis, OR: Oregon State University Press.
- Gordon, Elizabeth Ellen. 2016. "Female Candidates, Sociopolitical Subculture, and State Attorney General Elections." *Justice System Journal* 37(1): 63–71.
- Graham, Barbara Luck. 1990. "Do Judicial Selection Systems Matter? A Study of Black Representation on State Courts." *American Politics Quarterly* 18(3): 316–36.
- Grossmann, Matt, and David A. Hopkins. 2015. "Ideological Republicans and Group Interest Democrats: The Asymmetry of American Party Politics." *Perspectives on Politics* 13(1): 119–39.
- Haire, Susan B., and Laura P. Moyer. 2015. *Diversity Matters: Judicial Policy Making in the U.S. Courts of Appeals*. Charlottesville, VA: University of Virginia Press.
- Harris, Allison P., and Maya Sen. 2026. "How Judges' Professional Experience Impacts Case Outcomes: An Examination of Public Defenders and Criminal Sentencing." *Journal of Politics* 88(1): 431–437. <https://doi.org/10.1086/734532>.
- Hernandez, Samantha L., and Sharon A. Navarro. 2019. *Race, Gender, Sexuality, and the Politics of the American Judiciary*. New York, NY: Cambridge University Press.
- Hofer, Scott, and Jason Casellas. 2020. "Latino Judges on the Federal District Court: ¿Cómo Deciden?" *American Politics Research* 48(3): 343–54.
- Hofer, Scott, and Susan Achury. 2021. "The Consequences of Diversifying the US District Courts: Race, Gender, and Ideological Alignment Through Judicial Appointments." *Justice System Journal* 42(3–4): 306–24.
- Hollis-Brusky, Amanda. 2014. *Ideas with Consequences: The Federalist Society and the Conservative Counterrevolution*. New York, NY: Oxford University Press.
- Holman, Mirya R., and Monica C. Schneider. 2018. "Gender, Race, and Political Ambition: How Intersectionality and Frames Influence Interest in Political Office." *Politics, Groups, and Identities* 6(2): 264–80.
- Holmes, Lisa M., and Jolly A. Emrey. 2006. "Court Diversification: Staffing the State Courts of Last Resort Through Interim Appointments." *Justice System Journal* 27(1): 1–13.
- Hurwitz, Mark S., and Drew Noble Lanier. 2001. "Women and Minorities on State and Federal Appellate Benches, 1985 and 1999." *Judicature* 85(2): 84.

- Hurwitz, Mark S., and Drew Noble Lanier. 2003. "Explaining Judicial Diversity: The Differential Ability of Women and Minorities to Attain Seats on State Supreme and Appellate Courts." *State Politics & Policy Quarterly* 3(4): 329–52.
- Hurwitz, Mark S., and Drew Noble Lanier. 2008. "Diversity in State and Federal Appellate Courts: Change and Continuity Across 20 Years." *Justice System Journal* 29(1): 47–70.
- Johnson, Gbemende. 2021. "Gender, Diversity, and the United States Judiciary." *SAIS Review of International Affairs* 41(1): 61–71.
- Kang, Alice J., Miki Caul Kittilson, Valerie Hoekstra, and Maria C. Escobar-Lemmon. 2020. "Diverse and Inclusive High Courts: A Global and Intersectional Perspective." *Politics, Groups, & Identities* 8(4): 812–21.
- Kaslovsky, Jaclyn, Jon C. Rogowski, and Andrew R. Stone. 2021. "Descriptive Representation and Public Support for Supreme Court Nominees." *Political Science Research and Methods* 9(3): 583–98.
- Kennedy, Megan, Michael J. Nelson, and Erin Heidt-Forsythe. 2025. "Gender Stereotypes and Candidate Qualifications in Judicial Elections." *Political Research Quarterly* 78(1): 182–97.
- King, David C., and Richard E. Matland. 2003. "Sex and the Grand Old Party: An Experimental Investigation of the Effect of Candidate Sex on Support for a Republican Candidate." *American Politics Research* 31(6): 595–612.
- King, Jonathan M., Jessica A. Schoenherr, and Ian Ostrander. 2025. "Anchoring or Expanding? Gender and Judicial Nominations." *Political Research Quarterly* 78(1): 135–50.
- Klarner, Carl. 2013. "Governors Dataset." Harvard Dataverse, V1 <https://doi.org/10.7910/DVN/PQ0Y1N>
- Kritzer, Herbert M. 2015. *Justices on the Ballot: Continuity and Change in State Supreme Court Elections*. New York, NY: Cambridge University Press.
- Kritzer, Herbert M. 2023. "Appointed or Elected: How Justices on Elected State Supreme Courts Are Actually Selected." *Law & Social Inquiry* 48: 371–406.
- Lagodny, Julius, Rebekah Jones, Julianna Koch, and Peter K. Enns. 2023. "A Validation and Extension of State-Level Public Policy Mood: 1956–2020." *State Politics & Policy Quarterly* 23(4): 359–72.
- Lanier, Drew, and Handberg, Roger. 2011. "Diversity and Merit Selection: The Impact of Judicial Nominating Commissions on the Gender Demographics of Florida's Appellate Judges. Available at SSRN: <https://ssrn.com/abstract=1847809>
- Leonard, Meghan E., and Joseph V. Ross. 2015. "Understanding the Length of State Supreme Court Opinions." *American Politics Research* 44(4): 710–33.
- Lynch, Timothy. 2017. "Temp to Perm: Stacking the Electoral Deck Through U.S. Senate Appointments?" *Congress & the Presidency* 44(3): 369–86.
- Mansbridge, Jane. 1999. "Should Blacks Represent Blacks and Women Represent Women? A Contingent 'Yes.'" *Journal of Politics* 61(3): 628–57.
- Martin, Elaine, and Barry Pyle. 2002. "Gender and Racial Diversification of State Supreme Courts." *Women & Politics* 24(2): 35–52.
- Means, Taneisha, and Isaac Unah. 2025. "Public Perceptions of the Fairness of Black and White Judges in Racialized and Non-Racialized Cases." *Journal of Law and Courts* 13(2): 573–96.
- Merriman, Zoe, Chihiro Isozaki and Alicia Bannon. 2024. "State Supreme Court Diversity: May 2024 Update." Brennan Center for Justice, May 22. <https://www.brennancenter.org/our-work/research-reports/state-supreme-court-diversity-may-2024-update>. Accessed December 21, 2025.
- Moyer, Laura, Allison P. Harris, and Rorie Spill Solberg. 2022. "'Better Too Much Than Not Enough': The Nomination of Women of Color to the Federal Bench." *Journal of Women, Politics & Policy* 43(3): 363–75.
- Moyer, Laura P., John Szmer, Susan Haire, and Robert K. Christensen. 2021. "'All Eyes Are on You': Gender, Race, and Opinion Writing on the US Courts of Appeals." *Law & Society Review* 55(3): 452–72.
- Nguyen, Tony. 2019. "Why Women Win: Gender and Success in State Supreme Court Elections." *American Politics Research* 47(3): 582–600.
- Nixon, David C., and David L. Goss. 2001. "Confirmation Delay for Vacancies on the Circuit Courts of Appeals." *American Politics Research* 29(3): 246–74.
- Ono, Yoshikuni, and Michael A. Zilis. 2022. "Ascriptive Characteristics and Perceptions of Impropriety in the Rule of Law: Race, Gender, and Public Assessments of Whether Judges Can Be Impartial." *American Journal of Political Science* 66(1): 43–58.
- Ono, Yoshikuni, and Michael A. Zilis. 2023. "Do Americans Perceive Diverse Judges As Inherently Biased?" *Politics, Groups, and Identities* 11(2): 335–44.

- Petty, Griffin M., Dustin Magilligan, and Mandi Bates Bailey. 2022. "You Voted for Who? Explaining Support for Trump among Racial and Ethnic Minorities." *New Political Science* 44(2): 195–209.
- Pitkin, Hanna Fenichel. 1967. *The Concept of Representation*. Berkeley, CA: University of California Press.
- Reddick, Malia, Michael J. Nelson, and Rachel Paine Caufield. 2009. "Examining Diversity on State Courts: How Does the Judicial Selection Environment Advance and Inhibit Judicial Diversity?" *Judges' Journal* 48(3): 28–32.
- Rhinehart, Sarina, and Matthew J. Geras. 2020. "Diversity and Power: Selection Method and its Impacts on State Executive Descriptive Representation." *State Politics & Policy Quarterly* 20(2): 213–33.
- Rhinehart, Sarina, Matthew J. Geras, and Jessica M. Hayden. 2021. "Appointees Versus Elected Officials: The Implications of Institutional Design on Gender Representation in Political Leadership." *Journal of Women, Politics & Policy* 43(2): 152–68.
- Riccucci, Norma M., and Judith R. Saidel. 2001. "The Demographics of Gubernatorial Appointees: Toward an Explanation of Variation." *Policy Studies Journal* 29(1): 11–22.
- Scherer, Nancy, and Brett Curry. 2010. "Does Descriptive Race Representation Enhance Institutional Legitimacy? The Case of the U.S. Courts." *Journal of Politics* 72(1): 90–104.
- Sen, Maya. 2014. "How Judicial Qualification Ratings May Disadvantage Minority and Female Candidates." *Journal of Law and Courts* 2(1): 33–65.
- Solberg, Rorie Spill, and Jennifer Segal Diascro. 2020. "A Retrospective on Obama's Judges: Diversity, Intersectionality, and Symbolic Representation." *Politics, Groups, & Identities* 8: 471–87.
- Songer, Donald R., Sue Davis, and Susan Haire. 1994. "A Re-Appraisal of Diversification in the Federal Courts: Gender Effects in the Courts of Appeals." *Journal of Politics* 56(2): 425–39.
- Squire, Peverill. 2008. "Measuring the Professionalism of State Courts of Last Resort." *State Politics and Policy Quarterly* 8(3): 223–38.
- Squire, Peverill, and Jordan Butcher. 2021. "An Update to the Squire State Court of Last Resort Professionalization Index." *State Politics & Policy Quarterly* 21(3): 326–33.
- Szmer, John, Robert K. Christensen, and Erin B. Kaheny. 2015. "Gender, Race, and Dissensus on State Supreme Courts." *Social Science Quarterly* 96(2): 553–75.
- Valdini, Melody E., and Christopher Shortell. 2016. "Women's Representation in the Highest Court: A Comparative Analysis of the Appointment of Female Justices." *Political Research Quarterly* 69(4): 865–76.
- Verba, Sidney, Kay Lehman Schlozman, and Henry E. Brady. 1995. *Voice and Equality: Civil Voluntarism in American Politics*. Cambridge, MA: Harvard University Press.
- Vining, Richard L., Jr., Charles S. Bullock, and Ethan D. Boldt. 2023. "The Politics of Interim Judicial Appointments." *Journal of Law and Courts* 11(2): 350–69.
- Walker, Thomas G., and Deborah J. Barrow. 1985. "The Diversification of the Federal Bench: Policy and Process Ramifications." *Journal of Politics* 47(2): 596–617.
- Wilhelm, Teena, Richard L. Vining, Jr., David Hughes, and Aidan González. 2024. "Diversity in Judicial Leadership in the American States." *Polity* 56(3): 408–33.
- Williams, Margaret. 2007. "Women's Representation on State Trial and Appellate Courts*." *Social Science Quarterly* 88(5): 1192–204.
- Wolbrecht, Christina. 2000. *The Politics of Women's Rights: Parties, Positions, and Change*. Princeton, NJ: Princeton University Press.
- Yarbrough, Tinsley E. 2005. *David Hackett Souter: Traditional Republican on the Rehnquist Court*. New York, NY: Oxford University Press.

Shane A. Gleason is Associate Professor of Public Policy & Law at Trinity College. His research focuses on how attorney and jurist identity shapes outcomes in federal and state courts.

Marigail G. Reyna recently earned her bachelor's degree in Political Science at Texas A&M University-Corpus Christi. Her research interests focus on intersectionality and its effects on judicial behavior and decision-making.

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