

ARTICLE

# Executives Strike Back: Political Benefits of Sanctioning the U.S. Supreme Court

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## Abstract

Recently there have been extraordinary instances of public and political elite complaints toward the Supreme Court. Through a survey experiment, we find that when respondents read that a copartisan executive is offended by recent Supreme Court decisions and threatening to ignore future decisions, respondents increase their support of executives' not complying with and going public against the Court. Additionally, we find that partisans reward candidates by voting for them at higher rates if they ignore a Court decision that harmed the participant's party. Our findings hold implications for continued institutional arrangements and our understanding of the functioning of our democracy.

**Keywords:** Executive-Judicial; Relationship; Judicial; Legitimacy; Sanctions; Public; Support Noncompliance

In the past few years, there has been an increase in complaints against the Supreme Court by the public and elected officials alike. As Biden took office, after Trump's late-term appointment of a new justice to the bench, there were public calls for a modern-day packing of the Court. After the infamous *Dobbs* (597US \_ (2022)) decision, there were numerous protests, protective barriers were placed around the Supreme Court building, and grassroots actions arose to help women access abortions—a pushback against the decision. Often, when controversial case decisions are released, there is an onslaught of activity and posturing from the public and elected officials. Presidents, governors, and other elected officials may speak out and criticize the decisions, social media erupts with memes, hashtags, and complaints (at least from the politically attuned), and the fragmented U.S. media presents decisions through ideologically congenial frames to the mass public. These and other instances of ill will towards the Court can further deplete the popular standing of the Court (Montgomery and Rogol 2023) and provide political

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opportunities for the President and governors.<sup>1</sup> Our study contributes to our understanding of the contemporary political conditions by testing the impact of real-world statements on individual attitudes towards the Court and elected officials.

Because the Court has no formal power to execute its decisions, it relies on the other governmental actors to enforce its judgments. This allows the other branches and elected officials to seek to influence, pressure, punish, or support the Court. Elected and appointed governmental actors lend social support for decisions (for example Obama lighting up the White House in rainbow after *Obergefell*) or overtly provide enforcement (such as Eisenhower in Little Rock). However, if political actors are unhappy with a Court decision, they can try to sanction or hurt the reputation of the Court (for example, Trump's many tweets against courts, or Biden's press conference about the presidential immunity case). Political actors, as source cues, can influence the opinion of the public, but the Court remains dependent on public support for protection against the other branches. Our work in this project demonstrates the incentives for executives to practice Court sanctioning and threats.

This study explores how partisan framed messages shift public attitudes about executives criticizing and potentially ignoring the Court as well as specific support for presidents, governors, and the Court itself. To answer these questions, we conducted a novel experiment in which we presented study participants with one of three treatments. The messages consisted of either a control, in which no pertinent information was given, or one of two framed messages. Each framed message contained three elements: recent Court decisions that one of the two major U.S. parties opposed, specific considerations reinforcing why the decisions are rights violations and/or the outcome of a politicized Court, and a statement that a current or past President and some governors of that party have spoken out against the decision and plan to ignore the decision.

Afterwards, we analyze shifts in support amongst Democrats and Republicans for a president or governor sanctioning the Court in response to decisions that are ideologically incongruent with the executives' preferences. Additionally, we examine if the partisan framed messages have potential electoral consequences for these elected officials. We study these effects at the national level with questions about an individual's support for the president criticizing the Supreme Court and ignoring a Court decision. We extend this research to the state level by asking about individuals' support for governors speaking against and ignoring Court decisions. Finally, we explore the impact of our framed messages on specific support for the Court.

In our complex system of intergovernmental interactions, it is valuable to understand when, where, and how each institution of government can gain leverage against the others in interbranch interactions. There are multiple interaction points between the Court, the executive branch, and the states. One means through which an executive can seek to influence the Court to achieve political wins is through "sanctions" (for examples, see Clark 2009; Rogol, Montgomery, and Kingsland 2018; Eshbaugh-Soha and Collins 2020; Rogol and Montgomery 2021). In this paper, we study public support for two forms of executive sanctions, ignoring the Court's decisions (non-compliance) or publicly complaining about the Court.

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<sup>1</sup>The Supreme Court hit a record low of 40% approval in September 2021, which has held remarkably steady through September 2023. The drop in approval is largely driven by Democrats, whose average approval rating was at 50% in 2021, but is now at an abysmal 17%, while Republicans are at 62%. See <https://news.gallup.com/poll/509234/supreme-court-approval-holds-record-low.aspx> and <https://news.gallup.com/poll/4732/supreme-court.aspx>

Recent and impressive projects explore how discussions of reforming the Court, attributed to political elites (congressmembers or candidates), influences support for reform proposals and for the elites themselves (Black, Owens, and Wohlfarth 2023; Driscoll and Nelson 2023; Davis and Hitt 2024). We step into the current debate about how individuals form opinions about institutional actors to offer a new perspective. Specifically, we are interested in whether Americans support and even electorally reward critiques of the Court's decisions and the threat of noncompliance by two distinct kinds of political actors, governors, and presidents. We do indeed find that, under the right conditions, the public is willing to support executive sanctioning behavior, even to the degree of outright non-compliance.

Further, we find that this support extends all the way to the ballot box, with sanctioning behavior increasing the expressed willingness for a copartisan to vote for an executive — an important finding for understanding democracy, constitutionalism, and civic society. We conclude that executives serve as an efficacious source cue for shaping individuals' understanding of the Court's output, and our findings offer some support for the (sometimes) potency of a going public strategy. With these findings, we contribute to the developing debate on electoral benefit of Court sanctioning and provide an alternative perspective to current research (more on this in our *electoral consequences* section).

Additionally, our findings hold implications for the current debate about attacks on the Court's legitimacy by studying it from a different angle. Rather than studying direct support for reforms and decreasing diffuse support,<sup>2</sup> this study examines executive actions and sanctions against the Court. With a high degree of external realism, this study shows that executive sanctions against the Court have the potential to negatively shift support for the Court while increasing support for the executive sanctions, which necessarily implies a future of continued decrease in legitimacy and increased calls for reform. We find that, in our current polarized environment, the public is willing to support executive sanctioning behavior by copartisans, even to the degree of outright noncompliance. The power that executive endorsements hold over views of Court legitimacy is made most clear when considering that the attitudes of Republicans, who currently enjoy a very ideologically congruent Court, can be shifted considerably *toward* sanctions solely as a response to partisan rhetoric by trusted elites.

Ultimately, our findings highlight when it can be politically advantageous for an executive to criticize or ignore the Court and highlight some of the vulnerabilities of the Supreme Court. We find that there is a very possible future where executives could gain substantial support both in approval and at the voting booth for both ignoring politically unpopular Court decisions and going public against the Supreme Court. Thus, ours is a project that offers important and timely research into a political environment that has seen an increase in public and elite complaints against the Court (see even Biden's 2024 State of the Union Address). We show that elites stand to benefit from sanctioning the Court. Our contribution of presidential rewards and effects is important enough, but we also offer initial insight into the rewards for governors, such as Governor Abbot defying the Supreme Court in adding razor wire to the border.

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<sup>2</sup>We do not discount this line of research; in fact, we have published on these questions.

### Executive goals and tactics

Government actors want their policy goals realized; policy is one of the primary goals of the president, governors, and the Court (Canon and Giles 1972; Crowley 1987; Segal and Spaeth 2002; Massie, Hansford, and Songer 2004; Sala and Spriggs 2004). Presidents attempt to realize policy goals through interactions not only with the legislative branch, but also through the court system (Segal, Timpone, and Howard 2000; Curry, Pacelle, and Marshall 2008; Eshbaugh-Soha and Collins 2020). Presidents wish for court decisions to be congruent with their ideological preferences (Goldman 1997; Moraski and Shipan 1999; Segal, Timpone, and Howard 2000). Likewise, governors, as their state's executive, wish for reelection, when possible, and care about their reputation; thus, they care about policy achievements as well (see Barrilleaux 1999; Kousser and Phillips 2012). Like presidents, governors care about the congruence of Supreme Court decisions with their policy preferences (see examples on page 10).

One of the primary sanctioning tactics at an executive's disposal is "going public." Going public or speaking directly to the public in order to influence the other branches, is a unitary power of the president. For the public, the president serves as the most prominent partisan source cue. The going public literature took off with Kernell's (2006) research, and largely focused on the executive's success in Congress. Kernell (2006) argued that the president could circumvent Congress by building public sentiment and using the public to pressure Congress.

There continues to be debate in the field about the effectiveness of a president's going public tool. Some argue that the president exhibits little policy success in using public addresses to obtain policy achievements (Edwards 2006; Powell and Schloyer 2003; Barrett 2005; Holmes 2007; Young and Perkins 2005). The ineffectiveness of the presidents' going public strategy may be because citizens are not receiving the messages, are not interested in political information, or are resistant to opinion change (Baum 2002; Edwards 2006). Importantly, Edwards (2006) notes, "those people whom the president is most likely to reach and who are most likely to understand his positions are the most resistant to attitude change" (211).

However, on the other side of the debate, scholars demonstrate the potential for public addresses to improve approval ratings or saliency on a topic (Barrett 2005; Canes-Wrone 2001; Eshbaugh-Soha and Miles 2011; Kioussis and Stromback 2010; Rottinghaus 2006; Tedin, Rottinghaus, and Rodgers 2011). Appeals to the public are shown to be an effective means of generating policy action in Congress, building public support for presidents' preferred policy, and creating salient issues among the public and media (Canes-Wrone 2001; Eshbaugh-Soha and Peake 2005). Further, previous research has shown "going public" on individual issues can help maintain approval ratings, allow for credit claiming, and potentially change public opinion (Barrett 2005; Kioussis and Stromback 2010; Rottinghaus 2006; Tedin, Rottinghaus, and Rodgers 2011).

Recently, research has expanded the focus of going public to include exploring presidential rhetoric about the judiciary. When a president chooses to go public about pending or decided Court cases, they may do so to achieve desired public policy. For example, going public prior to a Court decision can be used to directly influence the outcome of the decision (Rogol, Montgomery, and Kingsland 2018). Additionally, they may go public to achieve other political goals, such as appearing representative of the public (Eshbaugh-Soha and Collins 2020).

In Eshbaugh-Soha and Collins's expansive and definitive 2020 work, the authors created a new dataset consisting of every statement (available in the *Public Papers of the President*) about a specific Court decision from the Washington through Trump presidencies. They find that speaking about a case prior to its decision is designed as a position taking exercise or to shape how the public understands the constitutional issues involved in the case. Likewise, statements after a rendered decision can serve position taking goals, goals to appear electorally responsive, and policy goals by influencing how a case is implemented (Eshbaugh-Soha and Collins 2020).

We argue, in line with a recent body of literature, that generally, when going public, the president serves as a powerful source cue to mediate opinions of the Court. Specifically, the partisanship of the president acts as a mediator of individual opinions (Armaly 2018; Montgomery, Rogol, and Kingsland 2019; Haglin et al. 2021; Armaly and Lane 2023). Montgomery, Rogol, and Kingsland (2019) find, that among supporters, the president can increase or lower approval of a Court's decisions, can increase or decrease job approval of the Court, and can even increase support for passing new legislation to restrict the Court's decision (an example of support for sanctioning activities). This paper continues to provide evidence for how executives or candidates can use a going public strategy to affect some political capital.

A more extreme and rare form of sanction is the threat of noncompliance. Presidents can threaten or even ignore Supreme Court decisions. A well-known example of a president's failure to execute a court decision is when the Reagan administration directed its personnel to follow standing agency policy (Social Security Administration) and ignore alternative directions coming from the circuit courts (Estreicher and Revesz 1989). In another example, Carter was ready to ignore a lower court's injunction against receiving documents from his appointees on a water study, which would be a highly public and combative action. On the memo briefing him on the injunction, Carter handwrote and forwarded to his White House Counsel: "Bob Lipshutz- I prefer to ignore him. Consequences?"<sup>3</sup> Threats of non-compliance may be rare but are memorable and impactful.

These sanctions, among others, work because the Court can be sensitive to its position relative to the other branches and the public. Court legitimacy aids in the implementation of its policy outputs. Thus, there is space for sanctioning tactics to influence the Court's decision-making process, particularly when there is public support for it. Sanctions can damage the Court's reputation (Curry, Pacelle, and Marshall 2008) and perhaps lower public support for the Court (Montgomery, Rogol, Kingsland 2019).

### Governors

Most interbranch research focuses on the national level, but some research has extended to the state level. At the state level, some research has demonstrated the ability of governors to go public for their policy and political goals (Lubbock 2012). Governors are worth studying; in terms of the saliency of a governor, after the president and vice-president, the governor is likely the most salient political actor

<sup>3</sup>Memo, Eizenstat and Fletcher to Carter, 3/14/1978, "North Dakota v. Andrus" folder, Box 135, Margaret McKenna's Files, Jimmy Carter Library.

to a respondent.<sup>4</sup> Governors can, and do, speak publicly about U.S. Supreme Court decisions. After the *Dobbs* memo was leaked, many state governors issued statements. For example, Maine's governor, Janet Mills, said, "I want to be very clear: unlike an apparent majority of the Supreme Court, I do not consider the rights of women to be dispensable."<sup>5</sup> After the Supreme Court ruled against New York's bill that placed restrictions on who could conceal carry a handgun, the governor issued a statement including, "I'm prepared to call the legislature back into session to deal with this. ... I will say we are not powerless in this situation. We're not going to cede our rights that easily. Despite the best efforts of the politicized Supreme Court of the United States of America, we have the power of the pen."<sup>6</sup> The most recent example of this behavior occurred in early 2024 when Texas Governor Abbott was described as defying the Court when he continued to put up barbed wire along the border with Mexico.<sup>7</sup>

Another sanctioning tactic a state legislature can take is to change a law in response to a Court decision. At the behest of the governor, the New York state legislature recently did just that and wrote a new law, also restricting concealed carry permits, (including a requirement for an applicant to demonstrate "good moral character"), in response to the Supreme Court's decision, which the Court allowed them to enforce during new legal challenges.<sup>8</sup>

Research has also shown that at the state level governors act similarly to the way presidents behave at the federal level. Governors are concerned with how they appear to the public and engage in activities designed to court public opinion, such as press conferences and attending events (Wolak and Parinandi 2022). Like presidents, the public "demands" policy leadership from its governors (Kousser and Phillips 2012, 2). Additionally, governors generally enjoy higher levels of support amongst their constituents than presidents do;<sup>9</sup> and they are seen as a source of agency (Behn 1991). And as with presidents, the public assesses the effectiveness/approval of their state executive through the ideological, policy, and economic outputs (Wolak and Parinandi 2022).

Governors also engage with courts, just as the president does. For example, like presidents, governors can use their institutional powers to sanction a court. Governors partake in sanctioning activities against their state high courts, such as court curbing and threatening salaries (Hall 2014). Additionally, Douglas and Hartley (2003) found, in a survey of court administrators and executive budget officers, that some governors appeared willing to reduce the funding of the state judiciary in the executive budget to influence the courts. For state judges who want to protect their

<sup>4</sup>[https://www.washingtonpost.com/politics/2022/10/27/americans-are-more-aware-who-represents-them-than-you-might-assume/and/Wolak,\\_Jennifer,\\_and\\_Srinivas\\_Parinandi.\\_2022.\\_%22Does\\_the\\_public\\_hold\\_governors\\_accountable\\_for\\_policy\\_outcomes?%22\\_Political\\_Research\\_Quarterly\\_75\(4\):\\_1051-1064.](https://www.washingtonpost.com/politics/2022/10/27/americans-are-more-aware-who-represents-them-than-you-might-assume/and/Wolak,_Jennifer,_and_Srinivas_Parinandi._2022._%22Does_the_public_hold_governors_accountable_for_policy_outcomes?%22_Political_Research_Quarterly_75(4):_1051-1064.)

<sup>5</sup>See the following NPR article for a list of governor statements: <https://www.npr.org/2022/05/03/1096062374/roe-v-wade-leak-opinion-abortion-supreme-court-states-rights-governor-document>

<sup>6</sup>6/23/2022. "Governor Hochul Issues Response to Supreme Court Ruling Striking Down New York's Concealed Carry Restriction." <https://www.governor.ny.gov/news/video-audio-rush-transcript-governor-hochul-issues-response-supreme-court-ruling-striking-down>

<sup>7</sup>Wolf, Zachary. 1/27/2024. "What Texas is (and is not) doing to defy a Supreme Court setback." <https://www.cnn.com/2024/01/27/politics/texas-border-supreme-court-what-matters/index.html>

<sup>8</sup>Howe, Amy. 1/11/2023. "Court allows New York to enforce new gun-control law while legal challenge proceeds." <https://www.scotusblog.com/2023/01/court-allows-new-york-to-enforce-new-gun-control-law-while-legal-challenge-proceeds/>

<sup>9</sup>ABC News. 2024. "Americans really love their governors." [https://abcnews.go.com/538/americans-love-governors/story?id=109382897.](https://abcnews.go.com/538/americans-love-governors/story?id=109382897)

institutional legitimacy, the threat of resource reduction can induce them to consider the interests of the branches with control over funding (Ferejohn and Kramer 2002). Schorpp (2012) examined threats of noncompliance by governors at the state level and found strategic and responsive decision making by state judges.

We do not purport to study the degree of influence between governors and presidents, we simply propose that governors also may influence the public with their responses to the Court. As governors are understudied, yet well-known, political leaders, we believe our study makes an important contribution to the field. In this study, we extend research by examining the effects of potential pushback by governors against the *federal* high Court. Additionally, we do not explore all the theoretical ways in which governors and presidents may respond differently to Court decisions. Future work can do much more to build on this research.

### ***Electoral consequences for incumbent executives***

There is very little empirical evidence describing under what circumstances voters might punish or reward an executive for speaking out against or ignoring a Supreme Court decision. However, there are theoretical reasons to expect that executive rhetoric or action against a Court will factor into a citizen's voting calculus. Most of the existing literature in comparative judicial politics assumes that citizens will punish an executive for going against a county's independent judiciary (see Gibson et al., 1998; Rogers 2001; Stephenson 2004; Krehbiel 2016). This line of research suggests that citizens respect and support an independent judiciary, thus they should view any attempt at sanction on the Court by an executive as an overextension of power. For example, Krehbiel (2021) examined noncompliance of Court rulings by incumbent governments using a cross-national analysis of over 70 countries. His work examined whether voters punished noncompliant governments at the polls. Ultimately, Krehbiel found that in countries that have a pre-established norm of respecting the judiciary, incumbent governments are more likely to be punished by voters.

Two very recent works demonstrate limits in reward potential congressional calls to reform the Court. Black, Owens, and Wohlfarth (2023) demonstrate that there is appeal to the idea of term limits and that partisans move in expected ways relative to the party of the cue giver. However, respondents, when pushed, account for the opportunity cost of implementing term limits; when reminded there are costs to reforming the Court, respondents decrease their support for the reform. Davis and Hitt (2024) argue that candidates who take party-congruent positions on reform face only marginal increases in perceived strength while party-in-congruent positions lead to decreases in perceived strength.

Despite the long-standing assumption that a country's voters will punish the sanctioning of high courts as a general rule, there is reason to believe this may not necessarily apply to all cases in the United States. Specifically, we follow Driscoll and Nelson (2023) in questioning this logic. These authors argue that citizens may well reward elected officials for court-curbing behavior under certain conditions; namely, when court-curbing is proposed by a member of one's own party and when the rationale for curbing the court is explained in bureaucratic terms. We believe voters will behave similarly when they encounter an executive criticizing or threatening to ignore a Supreme Court decision. Specifically, as will be explained below, we believe

that partisan congruent media messages about a co-partisan governor or president criticizing or threatening to ignore a Court decision will increase the executive's likelihood of being rewarded at the polls.

## The influence of public opinion on decision making

### *Executives*

Presidents, motivated by policy, reputational, and legacy goals (Canes-Wrone 2001; Eshbaugh-Soha and Collins 2015; Light 1999; Massie, Hansford, and Songer 2004; Moe 1985; Popkin 1991), naturally care about public opinion. Public opinion can influence how the president chooses to interact with the Court. Particularly, the ability or interest of the president to sanction the Court may be dependent on the president's public opinion standing. For example, we know that public opinion levels can be a determining factor in their success on certain legislative bills (Canes-Wrone and De Marchi 2002). Public opinion can even impact the presidents' willingness to use their unilateral powers. In their 2019 study, Christenson and Kriner argue that when public opinion dips, so too does the rate of significant executive orders.

The president's impact on the public's views of the Court has been widely studied (Armaly 2018; Kromphardt and Salamone 2021; Montgomery, Rogol, and Kingsland 2019; Nelson and Gibson 2019). Generally, the president serves as a source cue to mediate opinions of the Court and its job performance, meaning the partisanship of the president acts as a mediator of individual opinions (Montgomery, Rogol, and Kingsland 2019; Haglin et al. 2021). What is less studied is how the Court can influence how the public, in turn, views the president. Rogol and Montgomery (2022) find that when justices skip the State of the Union, presidential non-supporters lower their job approval of the president. The power of governors is similarly dependent on the support of the public (Partin 1995). In this study, we explore if media presentations of presidential or gubernatorial actions against the Court can reduce or increase job approval of the President and state governors. Additionally, we examine if executive action against the Court affects the electoral prospects of the respective executives.

### *The Court*

Public opinion can influence the decisions of the Court and executives at the federal and state level. First, justices may make certain decisions when considering their position relative to the public and to the president or other important political actors. When the Court witnesses a decrease in public opinion, it may decide cases in a manner favorable to Congress to avoid sanctions such as Court curbing initiatives (Clark 2009). Furthermore, decreased support for the Court has been determined to be associated with lower levels of funding for the courts, Congressional overrides of decisions (which can be further damaging in terms of opinion), and general institutional deference from Congress (Nelson and Uribe-McGuire 2017; Ura and Wohlfarth 2010).

There is also a growing body of research that suggests the Court is at least minimally concerned with its standing with the public, or public legitimacy, and may take action to bolster the opinion of the Court (Glennon and Strother 2019). Public opinion can play a role in the Court's decision-making process (Casillas, Enns,



and Wohlfarth 2011), influence how they write opinions (Black et al. 2016), or even influence whether they attend the president's State of the Union (Williams and Smith 2018).

### Media framing

The media acts as the intermediary between the institutions of government and the public. When reporting on an issue, media outlets inevitably highlight certain aspects surrounding an issue while ignoring others, presenting a *frame in communication* (Gamson and Modigliani 1987; Entman 1993; Chong and Druckman 2007; Chong and Druckman 2011). A frame in communication is “a central organizing idea or story line that provides meaning to an unfolding strip of events... The frame suggests what the controversy is about, the essence of the issue” (Gamson and Modigliani, 1987 p. 143). For example, Boykoff (2007) found that the U.S. media highlighted “conflict and contentions rather than coherence regarding scientific explanations of [human-caused] climate change” (p. 486). When the media presents information through framed messages, the highlighted aspects of the story become more accessible in an individual's mind and/or more applicable, meaning an individual will consciously apply a highlighted consideration to the issue (Chong and Druckman 2007). Literature has well established that media narratives can shift public opinion in general, and scholars have conducted many experiments demonstrating the power of one-side framed messages to shift attitudes on given issues (see Nelson et al. 1997; Brewer 2001; Shapiro and Bolsen 2019).

The media regularly reports on the Supreme Court. The Court is especially sensitive to framing effects from media narratives, as justices do not routinely go public in the way that elected officials do. Thus, mass media serves as the primary informer regarding the U.S. Supreme Court for public opinion (Clawson and Waltenberg 2003; Hitt and Searles 2018). Television news is often more likely to focus on the political nature of the judiciary (Spill and Oxley 2003) and framing the justices as political actors leads people to view the Court less favorably (Baird and Gangl 2006). However, when media coverage is positive, coverage of a Court decision can lead to increases in public support for that decision (Linos and Twist 2016). Even coverage about justices' public behavior, like attendance at the State of Union (Rogol and Montgomery 2022), or speaking tours (Krewson 2019), can shift specific support for the Court. Thus, the public image of the Court and its outputs are sensitive to the media's portrayal.

### Media fragmentation, electoral polarization, and partisanship

There has been an immense fragmentation of the media in the United States over the last 40 years (Prior 2013; Davis and Dunaway 2016) allowing individuals to selectively choose what political information they want to hear (Prior 2013; Levedusky 2009; Stroud 2010). As such, many individuals are routinely exposed to congenial partisan framed media messages. Fragmentation of the American news media has allowed at least the most politically engaged Americas to become better sorted into parties that match their ideologies (Levedusky 2009; Prior 2013).

The U.S. electorate is more politically polarized than it has ever been (Mason 2018). While the ideological distance between partisans in the electorate has

increased moderately, affective polarization has increased substantially (Wood et al. 2020; Ahler and Sood 2018). McCoy and Somer (2021) posit that polarization “divides electorates into mutually antagonistic ‘us’ vs. ‘them’ camps and collapses normal cross-cutting interests and identities into two mutually exclusive identities.” We follow these and other recent scholars who argue for the primacy of identity over policy positions or ideology as the driving force behind partisanship today (Westwood et al. 2018; Kahan 2018; Mason 2018). For example, partisan identity has been shown to be a stronger or more meaningful identity than even race or religion for many individuals (Iyengar and Westwood 2014; Westwood et al. 2018).

As an individual’s partisan identity is a formative factor in policy attitudes, prior research has demonstrated the robustness of partisan frames and endorsements in influencing attitudes. The mechanisms through which partisanship influences resulting attitudes are multitudinous (Bartels 2002; Jacobson 2010; Bolsen, Druckman, and Cook 2014). For instance, partisan identity in an individual may cause them to process new information with a directional goal in mind, e.g., to get in line with the party’s stance on a particular topic (Bolsen, Druckman, and Cook 2014). This mode of processing may cause individuals to expend more thoughtful cognitive effort in the face of a partisan frame or endorsement than they otherwise would have (Druckman 2012; Bolsen, Druckman, and Cook 2014). Conversely, individuals who are motivated to maintain symmetry with their party’s policy positions may process new information with a partisan frame or endorsement serving as a valid “cue” for how to think about the information. In this method, individuals will rely on heuristics within partisan framed media messages to aid in the opinion formation process (Clark and Kastellec 2015; Nicholson and Hansford 2014; Zaller 1992).<sup>10</sup> Finally, individuals may be motivated to form an accurate opinion, and simply view a partisan frame or endorsement within a message as a signal from a valid and trusted source (Druckman and McGrath 2019). Thus, even though motivations and processes may differ, partisan frames and partisan endorsements within media messages usually lead to greater acceptance of the policy or action being discussed amongst congenial partisans.

Based on this review of literature, we theorize that public statements made by presidential candidates and current presidents and state governors following Supreme Court decisions will be viewed through a partisan lens. There is evidence that evaluations of Court decisions become less favorable when the Court is seen as being politicized and/or polarized in the direction of an individual’s out-party. Conversely, labeling a decision as a result of a co-partisan Court will cause individuals to support the decision more (Nicholson and Hansford 2014). Further, evidence has shown that when courts in the U.S. are seen as being partisan towards individuals’ out-party, individuals tend to see the court as being less legitimate and are, thus, more likely to limit the Court’s independence (Barwick and Dawkins 2020).

In this study, we specifically focus on considerations about the Court violating fundamental rights and becoming politicized in addition to direct partisan cues. We expect that highlighting that the Court has “taken away” fundamental rights should strengthen the effects of a message, as research has shown that Americans highly

<sup>10</sup>Heuristics are conceptualized as “mental shortcuts” that enable individuals to gain information or knowledge from a reliable source and, in turn, use this information to formulate an evaluation of a given issue (Druckman and Lupia 2000; Lupia 1992; 1994; Lupia and McCubbins 1998; Popkin 1991).

value individual rights, broadly, and sometimes even when they are exercised by highly divisive groups (Prothro and Grigg 1960; Sullivan, Piereson, and Marcus 1979; Chong 1993).

To back up claims of rights violations and politicization, we cite recent cases that were unfavorable to Democrats or Republicans, respectively. For Democrats, we cite the following cases: *Biden v. Nebraska* (2023), *Dobbs v. Jackson* (2022), *303 Creative LLC v. Elenis* (2023), and *New York State Rifle & Pistol Association Inc. v. Bruen* (2022). For Republicans, we cite *Allen v. Milligan* (2023), *Sierra Club v. Trump* (2019),<sup>11</sup> and *Antonuk v. Nigrelli* (vacate to stay, 2023). For each of these cases, we make the claim that the decision was a violation of fundamental rights and/or the actions of a politicized Court. Additionally, support for each of the decisions was decisively split along partisan lines.<sup>12</sup> For this study, the cases used in the Republican and Democratic treatments need not be equally salient; instead, the main purpose that the cases serve is to have something for the President and partisan governors to respond to.

We theorize that highlighting considerations about cases involving rights violations that are important to Democrats and Republicans, respectively, will make the partisan and/or politicized nature of the Court more accessible and applicable in individuals' minds. These considerations, in conjunction with overt partisan rhetoric in opposition to the case decisions, will make individuals more supportive of a co-partisan President or governor who criticizes or threatens to ignore the Court's decisions and less supportive of an out-party President or governor who employs the same actions. They will also be more (less) likely to support the actions themselves as well as less (more) likely to approve of the job that the Court is currently doing.<sup>13</sup>

Our treatments are designed to capture a degree of external validity; we mention actual cases that were decided and use politicians' quotes in crafting our treatments.<sup>14</sup> Astute readers may wonder about the comparability of the two conditions to each other in terms of saliency of the cases described in the treatments and, thus, the strength of

<sup>11</sup>This decision was rendered by the 9<sup>th</sup> circuit; however, it was appealed to the Supreme Court, where a decision was not reached. In this instance, we introduce a degree of deception, as the outcome was not decisively against Republicans because when Biden took office, the policy on funding the border wall was changed. We included this consideration in order to reach parity with the Democrat aligned message.

<sup>12</sup>See IPSOS. 7/2/23. "Americans split on recent Supreme Court decisions" <https://www.ipsos.com/en-us/americans-split-recent-supreme-court-decisions>; Pew. 9/13/2023. "Key facts about Americans and guns." <https://www.pewresearch.org/short-reads/2023/09/13/key-facts-about-americans-and-guns/>; Politico. 9/26/2023. "Supreme Court rejects Alabama GOP redistricting appeal, clearing way for Dem pickup." <https://www.politico.com/news/2023/09/26/supreme-court-alabama-redistricting-00118122>;

<sup>13</sup>In this study we are not claiming to understand whether or how job approval (specific support) and/or legitimacy (as measured in scales of diffuse support) mediate or moderate support for executives or their actions. However, we acknowledge that these questions are worthy of study and present an area ripe for future inquiry.

<sup>14</sup>Quotes derived from language by Governor Hochul of New York and Senator Sanders. Hochul. 6/23/2022. "Governor Hochul Issues Response to Supreme Court Ruling Striking Down New York's Concealed Carry Restriction." [https://www.governor.ny.gov/news/video-audio-rush-transcript-governor-hochul-issues-response-supreme-court-ruling-striking-down-.](https://www.governor.ny.gov/news/video-audio-rush-transcript-governor-hochul-issues-response-supreme-court-ruling-striking-down-); Sanders. 6/30/23 NEWS: Sanders Statement on Supreme Court Overturning Student Debt Cancellation. <https://www.sanders.senate.gov/press-releases/news-sanders-statement-on-supreme-court-overturning-student-debt-cancellation/>

the two treatments.<sup>15</sup> Additionally, we purposefully do not point out that in order for Republicans to have “lost” a case, a Republican justice or two would need to sign with the Democratic justices. To allay these concerns, let us make a few arguments clear.

Previous research demonstrates that in polarized environments, respondents will still use weaker partisan arguments over stronger non-partisan arguments (Druckman et al 2013). We expect that these results will extend to our univalenced conditions. Partisan polarization is at its highest point in over 50 years and citizens are sharply sorted into parties by ideology (Levendusky 2010)<sup>16</sup>. Further, Slothuus and de Vrees (2010) argue that “On issues at the center of partisan conflict—where partisan values seem to be particularly at stake—citizens’ partisan loyalties should be especially salient and hence more likely bias their response to party frames” (2010, 663). This prior research led us to predict that the direction of shifts in support will be shaped most by partisanship, despite lower salience of the issues used in the Republican aligned message. Furthermore, there is evidence that Republicans and Democrats respond to partisan media sources (and their messaging) in symmetrical ways (Hmielowski, Hutchends, and Beam 2020).

Our theory rests on the idea that respondents will use source cues to process new information in a way that aligns with their partisan identity. Despite the differences in the saliency of the cases mentioned, we do indeed find shifts in support in the predicted directions. These results make the findings even more striking for Republicans who are indeed initially more approving of the Court.

We hypothesize, and find, partisans respond in predicted ways to the in-party and out-party framed messages. In this study, we do not concern ourselves with the difference in magnitude of effects between Democrats and Republicans. Most importantly, we make no *direct* comparisons between Democratic and Republican respondents. We compare Republicans to Republicans and Democrats to Democrats only.

Finally, while we make no hypotheses in the *difference of impact* between governors and presidents, we do suggest that the direction in change is the same for both executives. Based on the literature reviewed earlier, we are confident that governors, like presidents, can serve as a source cue. Additionally, as with presidents, opinion about someone’s governor seems to be impacted by their partisanship.<sup>17</sup> Likewise, we make no predictions about the difference in impact of our president (Biden) and former president/current presidential candidate (Trump), as we see that task to be beyond the scope of this project and set of analyses. Instead, we predict that the direction of shifts in support should be commensurate; with the underlying

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<sup>15</sup>Additionally, a helpful reviewer pointed out that Republicans and Democratic leadership do not always speak in the same way. In our study, we use nearly identical language in the two treatment conditions. Our treatments present the comments as deriving from a statement issued by the (past) President and (Republican) Democratic Governors. We do not deny that Trump has a unique way of speaking that may be less refined than what our treatments contain. However, we think that both parties are still capable of issuing “professional enough” press releases. The color contained in our treatments derives from Democratic talking points; how unrealistic it is to believe a Republican could say these things, we leave up to the reader. But we do consider this detrimental to our goals of external validity.

<sup>16</sup>And see, Vanderbilt Unity Index. 2/14/2024. <https://www.vanderbilt.edu/unity/vanderbilt-unity-index/>

<sup>17</sup>Pew. 2023. “How Americans view Congress, the president, state and local political leaders” <https://www.pewresearch.org/politics/2023/09/19/how-americans-view-congress-the-president-state-and-local-political-leaders/>

mechanism being responsiveness to the partisanship of the source cue that is seen as legitimate.<sup>18</sup> Thus, we offer the following hypotheses:

**Hypothesis 1a:** Partisan respondents who receive an in-party (out-party) message will be more (less) likely to support a **president** going public against the U.S. Supreme Court compared to co-partisans in the baseline condition.

**Hypothesis 1b:** Partisan respondents who receive an in-party (out-party) message will be more (less) likely to support a **governor** going public against the U.S. Supreme Court compared to co-partisans in the baseline condition.

**Hypothesis 2a:** Partisan respondents who receive an in-party (out-party) message will be more (less) likely to support a president ignoring a U.S. Supreme Court ruling compared to co-partisans in the baseline condition.

**Hypothesis 2b:** Partisan respondents who receive an in-party (out-party) message will be more (less) likely to support a governor ignoring a U.S. Supreme Court ruling compared to co-partisans in the baseline condition.

Essentially, we expect to find that when partisans receive framed messages about their party experiencing losses in the Court, they increase their support of elected executives publicly criticizing and potentially ignoring the Court. However, if their out-party has faced losses, they decrease approval of this sanctioning activity.

**Hypothesis 3a:** Partisan respondents who receive an in-party (out-party) message will be more (less) likely to say they would vote for a president who ignored a U.S. Supreme Court ruling compared to co-partisans in the baseline condition.

**Hypothesis 3b:** Partisan respondents who receive an in-party (out-party) message will be more (less) likely to say they would vote for a governor who ignored a U.S. Supreme Court ruling compared to co-partisans in the baseline condition.

Here, we expect that partisans will reward co-partisan executives for sanctioning the Court when they read framed messages that their party fared poorly in the Court but punish executives for sanctioning the Court when they read that their party did well.

**Hypothesis 4:** Partisan respondents who receive a treatment with co-partisan message will decrease (increase) Court specific support compared to co-partisans in the baseline condition.

That is, as Democrats read the Democratic framed condition, we expect they will lower their specific support for the Court compared to those in the control, likewise when Republicans read about Republican losses. But, when partisans read that the other party was facing losses in the Court, we expect they will increase their job approval of the Court.

<sup>17</sup>Pew. 2023. "How Americans view Congress, the president, state and local political leaders" <https://www.pewresearch.org/politics/2023/09/19/how-americans-view-congress-the-president-state-and-local-political-leaders/>

<sup>18</sup>We do not speculate how the public *should* respond differently to the two. While we think that responses by *past* presidents may work differently, as they do not hold as much institutional power, for us, Trump offers a most salient partisan elite source cue since he is actively running for reelection. Thus, we can see if people respond to this party leader and consider rewarding him electorally.

### **Study design**

To evaluate our predictions, we developed a pre-registered experimental design composed of two distinct conditions and one control.<sup>19</sup> The control read a short paragraph about an unrelated topic to keep each group's experience within the experiment as consistent as possible (Druckman, Levendusky, and McLain 2018; Druckman 2022). We present partisan framed messages about Democrats (Republicans) facing loses in recent Court cases and responses from the Democratic (Republican) presidents and governors. The Democratic condition mentions president Biden, and the Republican president uses former President Trump, reminding readers he is running for reelection. We recruited 810 respondents through Prolific, a web-based survey provider. The survey instrument was administered through an online software program accessed via the Prolific platform.<sup>20</sup>

Each participant was randomly assigned to one of the three conditions. Each of the conditions presented the respondent with a message that was programed to look like a newspaper article. The two treatment conditions contained the framed messages. To guide the creation of these framed messages, we referenced several articles that discussed Court cases from a Democratic or Republican "loss" perspective and used political actor quotes about cases. Thus, our treatment conditions add external validity; they approximate available messages and considerations present in the current news environment. The messages were informative but brief to mimic what someone quickly scanning the news might see and engage with.

We refer to the two treatment conditions as "Democratic Aligned Condition" and "Republican Aligned Condition" to note which party was the focus of the treatment. In the Democrat Aligned Condition, it is Democratic leaders who are upset at the Court and suggesting they will not enforce their decisions, and vice versa for the Republican Aligned Condition.

### **Dependent variables**

Immediately after the treatment, we captured respondents' evaluations of our dependent variables of interest. First, we ask about support for the sanctions of ignoring a Court decision or going public about the Court. To access support for ignoring decisions, we asked, "How much do you support or oppose the President (Governors) in **ignoring** a U.S. Supreme Court decision?" which was measured on a 7-point Likert scale from strongly oppose to strongly support. Next, we assess evaluations towards negatively going public by asking, "How much would you support or oppose the President (Governors) **publicly criticizing** the U.S. Supreme Court?" on a 7-point Likert scale from strongly oppose to strongly support.

<sup>19</sup>Pre-registration completed on July 13<sup>th</sup>, 2023 – AsPredicted.org, # 138375. [https://aspredicted.org/K71\\_Y8T](https://aspredicted.org/K71_Y8T)

<sup>20</sup>Participation was restricted to respondents within the United States, over the age of 18, and who had successfully completed at least 100 other Prolific projects. In addition, we removed responses which were obviously not seriously participatory (that is, people who completed the survey in less than a minute, failed the manipulation check, or those who completed half the questions). Further information regarding our sample, their compensation, and protections is in the appendix.

Next, we evaluate specific support for the Supreme Court by asking, “To what extent do you disapprove or approve of the way the following officials are performing their job?” Participants answered for the Supreme Court, Governors, and President.

We also wanted to begin to explore electoral consequences or benefits of threatening to ignore the Court. To assess the likelihood of voting for a candidate that ignored the Court, we asked, “How likely or unlikely are you to **vote** for a President (Governor) that **ignored** a U.S. Supreme Court decision?” which was measured on a 7-point Likert scale from highly unlikely to highly likely.

### *Independent variables*

Our key independent variables consist of dichotomous indicators representing assignment to one of three unique conditions, the wording of which is presented in [Table 1](#). Each respondent received a code of 1 for the condition in which they were assigned, and a 0 for the others.

To explore how partisanship moderated reactions to our framed messages, we measured respondents’ partisanship. We asked respondents, “Generally speaking, do you usually think of yourself as a Republican, a Democrat, or an independent?” The answer choices available were “Republican,” “Independent,” and “Democrat.” If the participant chose “Independent,” they were next shown the following question, “Do you think of yourself as closer to the Republican Party or the Democratic Party?” Respondents could choose between “closer to the Republican Party,” “closer to the Democratic Party” or “neither.” We follow prior literature on partisanship and group independents who lean towards either party with partisans of that party for the purpose of analysis, while pure independents were excluded (see Bullock, 2011; Druckman et al., 2012; Bolsen et al., 2014).

### **Results**

We begin our results discussion by displaying the means for each condition in [Table 2](#). The means are broken down by dependent variables (going public, ignoring a decision, and electoral reward) and partisanship. Looking at the control conditions, Democrats are initially more supportive of the sanctions and more likely to vote for the candidate than Republicans (though we do not test for statistically significant differences between the partisan groups).

To display our results in a meaningful way, we present figures that illustrate shifts in respondents’ support for our variables of interest in each treatment condition relative to our baseline condition. These figures demonstrate the substantive impact of the conditions and denote which conditions reach traditional levels of statistical significance.<sup>21</sup> These percentage shifts are calculated by subtracting the mean level of support in a treatment group from the mean level of support reported in the baseline condition and dividing the difference by 7 (because we measured responses using a 7-point Likert scale). Statistical significance of a treatment condition’s effect, compared to the baseline, is denoted in the figure, and determined by OLS regression

<sup>21</sup>We use two-tailed significance tests throughout as some of our analyses are exploratory.

**Table 1.** Conditions and Language of Each Framed Message

Condition	Language
Democratic Aligned Condition	<p><b>Supreme Court’s Assault on Fundamental Rights Sparks Democrats’ Outrage and Defiance</b></p> <p>The U.S. Supreme Court recently ruled against Democrats, striking down several of their policies. These included overturning President Biden’s student debt relief plan, which aimed to forgive up to \$20,000 of student loan debt; ending federal protections of the right to get an abortion; overturning a Colorado law that prevented discrimination against LGBT+ individuals; and stopping a New York state gun law that made it more difficult to carry a gun in a public place. Democrat elected officials, from the President to governors, argued that ‘a national movement to attack hard-won and hard-fought freedoms is underway.’</p> <p>In light of these decisions, Democratic governors and President Biden issued a statement signaling that they will not respect or enforce the Supreme Court’s rulings when ‘they are in conflict with our fundamental rights.’ Additionally, the statement reads, ‘These decisions are not just reckless; they are reprehensible. We have a moral and legal responsibility to do what we can to protect our citizens. Partisan insanity has now possessed everyone all the way up to the Supreme Court.’ Finally, the Democratic leadership denounced the Court by stating, ‘If right-wing Supreme Court justices want to make public policy, they should quit the Supreme Court and run for political office.’”</p>
Republican Aligned Condition	<p><b>Supreme Court’s Assault on Fundamental Rights Sparks Republican Outrage and Defiance</b></p> <p>The U.S. Supreme Court recently ruled against Republicans, striking down several of their policies. These included taking away money for former President Trump’s border wall between the U.S. and Mexico; overruled Alabama’s Congressional redistricting plan, which will reduce the number of Republicans in Congress; and allowed states to temporarily take guns away from certain people without due process. Republican elected officials, from the former President to governors, argued that ‘a national movement to attack hard-won and hard-fought freedoms is underway.’</p> <p>In light of these decisions, Republican governors and former President Trump (who is running for re-election) issued a statement saying that they will not respect or enforce the Supreme Court’s rulings when “they are in conflict with our fundamental rights.” Additionally, the statement reads, “These decisions are not just reckless; they are reprehensible. We have a moral and legal responsibility to do what we can to protect our citizens. Partisan insanity has now possessed everyone all the way up to the Supreme Court.” Finally, the Republican leadership denounced the Court by stating, “If left-wing Supreme Court justices want to make public policy, they should quit the Supreme Court and run for political office.”</p>

estimates.<sup>22</sup> Due to successful random assignment, we used parsimonious models excluding control variables throughout. The appendix contains tables for all models presented in figure form.

### ***Support for executives sanctioning the court***

We begin by assessing how our framed messages affect support for executives ignoring a Supreme Court decision and support for executives publicly complaining

<sup>22</sup>OLS coefficients represent the difference in means between the treatment condition and the baseline. Thus, these results are directly and meaningfully interpretable. Additionally, these results are robust to ordered probit estimates. The appendix includes both the OLS and ordered probit models. Conditions significant in the OLS estimates remain significant in the ordered probit models.



Table 2. Average Values by Condition, Variable, and Party Identification

	Democrats		Republicans	
	President	Governors	President	Governors
<b>Support for Going Public:</b>				
Control Condition	5.265	5.197	2.909	3.355
Democratic Aligned Condition	6	5.969	2.317	2.394
Republican Aligned Condition	4.324	4.231	4.287	4.504
<b>Support for Ignoring Ruling:</b>				
Control Condition	3.545	3.409	1.945	2.063
Democratic Aligned Condition	4.233	4.188	1.816	1.883
Republican Aligned Condition	2.629	2.533	2.796	2.806
<b>Likelihood to Vote:</b>				
Control Condition	3.568	3.424	2.156	2.394
Democratic Aligned Condition	4.398	4.256	1.961	2.038
Republican Aligned Condition	2.75	2.676	3.37	3.278

about the Court. Our hypotheses suggest that Democrats and Republicans will react oppositely to the framed messages, depending on whether the treatment is aligned or opposed to their partisanship. That is, Democratic party members will increase support for the president criticizing or ignoring the Court when their party has faced losses, but not when the Republican party has. We expect the opposite with Republicans. Our findings largely support these hypotheses regarding support for executive sanctions against the Supreme Court.

Figure 1 displays the change in support for these sanctions by actor and partisanship and illustrates the percent shift on a 7-point response scale of support for executives going public against the Supreme Court.

**Publicly criticizing the court**

We find support for hypotheses 1a and 1b which suggest Democratic (Republican) respondents who receive a treatment with a Democratic framed message will be more

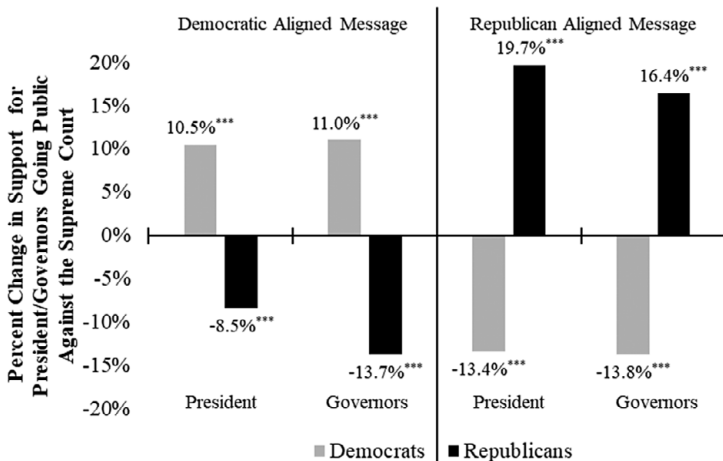


Figure 1. Percent Change in Support for Executive Sanctions – Going Public.

(less) likely to support a president or governor going public against the U.S. Supreme Court compared to Democrats (Republicans) in the baseline condition, and vice versa with respondents in the Republican framed message. Essentially, we expect to find, and indeed do find, that partisans increase their support of elected executives publicly criticizing the Court after exposure to framed messages that their party has faced losses in the Court. However, if their out-party has faced losses, they decrease approval of this sanctioning activity.

Democrats who read the Democratic Aligned framed condition increase their support of the president publicly criticizing the Supreme Court. Democrats in this condition increased their support for going public by 10.5% on a 7-point scale (two-tailed  $p$  value .001), whereas Republicans in the Democratic Aligned condition decreased their support for the president publicly criticizing the Court by 8.5% (two-tailed  $p$  value .017). On the other hand, Republicans in the Republican Aligned condition increased their support of the president publicly criticizing the Court by 19.7% (two-tailed  $p$  value .001) while Democrats in this condition decreased their support of going public by 13.4% on a 7-point scale (two-tailed  $p$  value .001).

The trends repeat for governors. Democrats in the Democratic Aligned framed condition increased their support of governors publicly criticizing the Supreme Court. Democrats in this condition increased their support for going public by 11% on a 7-point scale (two-tailed  $p$  value .001), whereas Republicans in the Democratic Aligned condition decreased their support for governors publicly criticizing the Court by 13.8% (two-tailed  $p$  value .001). On the other hand, Republicans in the Republican Aligned condition increased their support of governors publicly criticizing the Court by 16.4% (two-tailed  $p$  value .001) while Democrats in this condition decreased their support of going public by 13.7% on a 7-point scale (two-tailed  $p$  value .001). Thus, we see partisan motivated responses to executive's going public against the Court. Partisans support the behavior when their party has suffered losses but not when their out-party has.

### *Ignoring the court's decision*

We find partial support for hypotheses 2a and 2b which suggest Democratic respondents who receive a treatment with a Democratic framed message will be more likely to support a president or governor ignoring a U.S. Supreme Court ruling compared to Democrats in the baseline condition, and vice versa with respondents in the Republican framed message. Hypotheses 2a and 2b also propose that Republican respondents with the Republican framed message will be less likely to support these sanctions, and vice versa for Democrats in the Republican framed message condition. Like with going public, or publicly criticizing the Court, we expect partisans to support the executive's sanction after reading framed messages that their party is hurt by the Court's decisions. [Figure 2](#) displays these results.

Democrats who read the Democratic Aligned framed message increase their support for the president ignoring the Court by 9.8% on a seven-point scale, compared to the control condition (two-tailed  $p$ -value .004). Meanwhile, Republicans in the Democratic Aligned condition do not demonstrate a statistically significant difference from Republicans in the control condition. These trends reverse for those receiving the Republican Aligned framed message. One interesting finding, however, is that Republicans did not show a statistically significant decrease for ignoring the Court when they read about Democrat losses. However, Democrats who

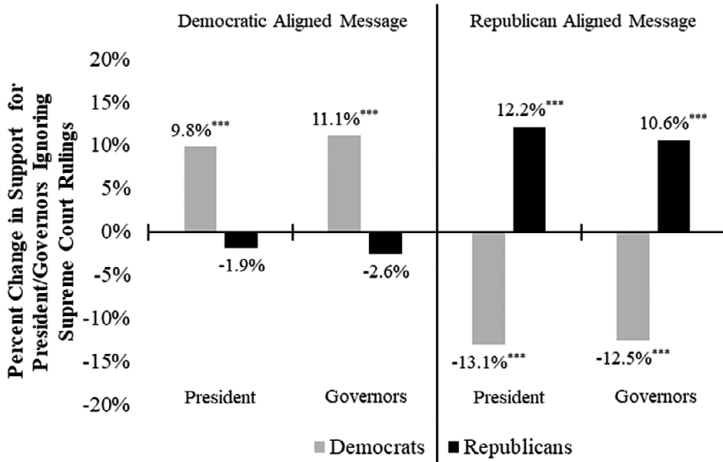


Figure 2. Percent Change in Support for Executive Sanctions – Ignoring.

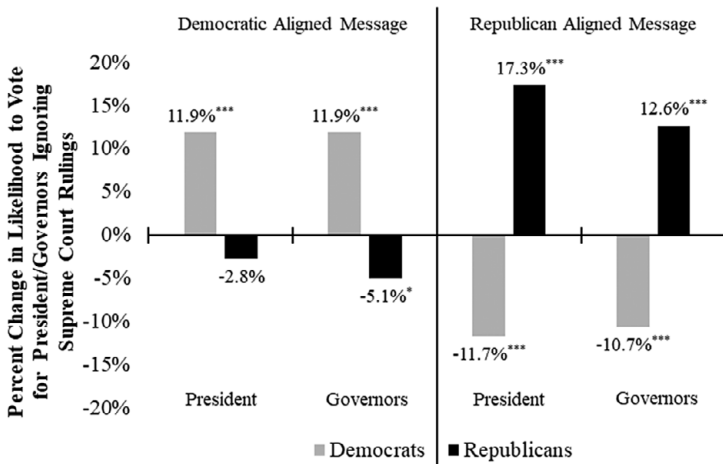


Figure 3. Percent Change in Likelihood to Vote for President or Governor.

read about the Republican losses decrease their approval of a president ignoring a Court decision by 13.1% on a seven-point scale, compared to the control (two-tailed p value .001). However, Republicans in the Republican Aligned condition increased their support of a president ignoring a Court decision by 12.2% on a seven-point scale (two-tailed p value .001).

Democrats who read the Democratic Aligned framed message increased their support for the governor ignoring the Court by 11.1% on a seven-point scale, compared to the control condition (two-tailed p value .001). Meanwhile, Republicans in the Democratic Aligned condition do not demonstrate a statistically significant difference from Republicans in the control condition. Democrats who read about the Republican losses increased their approval of a governor ignoring a

Court decision by 12.5% on a seven-point scale, compared to the control (two-tailed p value .001). But Republicans in the Republican Aligned condition increased their support of a governor ignoring a Court decision by 10.6% on a seven-point scale (two-tailed p value .001).

Again, we see partisan supportive behavior; when an individual’s party loses, support for the executives in ignoring the Court increases. However, while the coefficients are signed as predicted, Republicans in the Democratic Aligned condition do not show a statistically significant decrease for ignoring the Court after they read about Democratic losses. Democrats in our experiment seem to be more willing to punish and reward executives for sanctioning the Supreme Court. Given recent high profile Court losses, we think this greater volatility among Democrats makes sense.

**Support for voting for executives who ignore the court**

Hypotheses 3a and 3b deal with the electoral consequences, or rewards, of presidents and governors who would hypothetically ignore a Court decision. After participants received their treatments, we asked, “How likely or unlikely are you to **vote** for a President (Governor) that **ignored** a U.S. Supreme Court decision?” The hypotheses stated: Democratic (Republican) respondents who receive a treatment with a Democratic framed message will be more (less) likely to vote for a president or governor who ignored a U.S. Supreme Court ruling compared to Democrats (Republicans) in the baseline condition, and vice versa with respondents in the Republican framed message. Again, we expected that partisans would reward co-partisan executives for sanctioning the Court when they read frames that their party fared poorly in the Court but punish executives for ignoring the Court when their party did well.

We find large support for these hypotheses. Figure 4 displays the results. Democrats in the Democratic Aligned Condition display an increase in likelihood

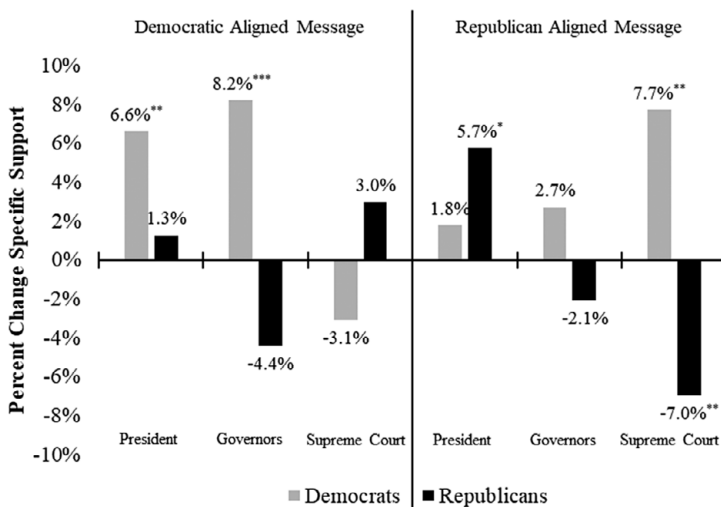


Figure 4. Percent Change in Support for the President, Governors, and Supreme Court.

of voting for a president who ignores a Court decision, compared to the baseline condition. Democrats in the Democratic “lose condition” show a 11.9% increase in how likely they say they are to vote for a president who ignored a Court decision (two-tailed *p* value .001). Republicans in the Democratic Aligned condition do not demonstrate a statistically significant difference from those in the control.

Democrats in the Republican Aligned condition demonstrate a decrease in reported likelihood of voting for a president who ignored a Court decision. We see a 11.7% decrease on a seven-point scale for these participants (two-tailed *p* value .001). However, after reading about Republican losses, Republicans rewarded presidents who ignored the Court. Republicans in the Republican Aligned condition report a 17.3% increase in reported likelihood of voting for a president who ignored a Court decision compared to those in the control (two-tailed *p* value .001).

Again, we see a similar trend with governors. Democrats in the Democratic Aligned Condition display an increase in likelihood of voting for a governor who ignores a Court decision, compared to the baseline condition. Democrats in the Democratic Aligned condition show a 11.9% increase in how likely they say they are to vote for a governor who ignored a Court decision (two-tailed *p* value .001). Republicans in the Democratic Aligned show a 5.1% decrease on a seven-point scale in reported likelihood of voting for a governor who ignored the Court (two-tailed *p* value .088).

Democrats in the Republican Aligned condition demonstrate a decrease in reported likelihood of voting for a governor who ignored a Court decision. We see a 10.7% decrease on a seven-point scale for these participants (two-tailed *p* value .001). However, after reading about Republican losses, Republicans rewarded governors who ignored the Court. Republicans in the Republican Aligned condition reported a 12.6% increase in reported likelihood of voting for a governor who ignored a Court decision compared to those in the control (two-tailed *p* value .001).

### **Specific support**

Next, we turn to the impact of our framed messages on specific support. We gauged specific support by asking about job approval; we asked, “to what extent do you disapprove or approve of the way the following officials are performing their job?” Participants answered for the Supreme Court, Governors, and President.

For the Supreme Court, we predicted that as Democrats (Republicans) read the Democratic (Republican) aligned message, they would lower their specific support for the Court compared to those in the control. But we predicted that when partisans read that the other party was facing “losses” in the Court, they would increase their job approval of the Court. Again, we find large support for our hypotheses, displayed in [Figure 4](#). Democrats who read about Democratic losses in the Court decreased their job approval of the Supreme Court by 3.1% on a seven-point scale.<sup>23</sup> Democrats

<sup>23</sup> Although we report two-tailed coefficients throughout, all our hypotheses are directional and one-tailed *p* values are appropriate. The one-tailed *p* value is .098; some might not call this statistically significant, but we will leave it to the reader to determine their own threshold.

that read about Republican losses, on the other hand, increased their approval of the Court by 7.7% on a seven-point scale (two-tailed  $p$  value .011). For the Republican respondents, those that read about Democrat losses did not demonstrate a statistically significant difference from the control. But, when Republicans read about Republicans losing, they decreased their support of the Court by 7% on a seven-point scale (two-tailed  $p$  value .036). Thus, we see clear partisan motivated reactions to the frames.

Our formal hypothesis in H4 referenced specific support for the Supreme Court. We also asked about job approval for the executives after the prompts mentioned them speaking out against the Court decisions. We expect that respondents will act opposite to the executives than they did the Court. That is, they will reward the president in their associated loss-framed condition.

We take caution when examining the *Republican Aligned condition* president results. Our question asked about job approval of the president but recall that the Republican aligned message discussed “former President Trump.” We suspect that respondents were primed by the mention of Trump as president when responding, but we do not know for certain. Given that the trends are similar for both treatment conditions, we suspect that we are indeed correct. When Democrats read the Democratic Aligned frame, they showed a 6.6% increase in approval of the president on a seven-point scale (two-tailed  $p$  value .021). There was no statistically significant difference from the control when they read the Republican Aligned framed messages. Likewise, there was no statistically significant difference when Republicans read the Democratic Aligned frame, but when they read about Republican Aligned frame, they increased their approval of the president by 5.7% (two-tailed  $p$  value .05). Thus, we suspect that the public would support their partisan president to sanction the Court if they faced losses in the Court.

We want to point out an interesting trend, contrary to our hypothesis. Overall, respondents trend positively in response to presidential statements *even if it is for the out-party president/candidate* (trends for out-party do not reach statistical significance). Famously, Tedin, Rottinghaus, and Rodgers 2011 find that respondents, especially non-partisans, improved their perceptions of President Bush after watching him speak. They go on to point out that improvements in approval of the president’s personal strengths can positively influence vote choice. Our post-hoc theorizing leads us to suspect that the increase in approval is due to seeing the president act presidential. Regardless of the theoretical mechanism, this trend displays the utility in understanding the impact of going public. In the last three presidential elections (2016, 2020, and 2024), the leading candidates are generally separated by a percentage point or two (well within the margin of error). Small dips or increases in approval, especially close to election day, may make or break a candidate’s chances.

We see slightly different responses when looking at governors. Like with presidents, Democrats increase their job approval of the referenced governors when they read the Democratic Aligned condition. There is an 8.2% increase on a 7-point scale (two-tailed  $p$  value .001). There is no statistically significant change when they read the Republican Aligned condition. However, Republicans do not change their support for governors in the Republican Aligned condition. But they do decrease support for governors after reading the Democratic Aligned condition; 4.4% decrease

(one-tailed *p* value .062).<sup>24</sup> We see that partisans would be willing punish out-party governors if they challenged a Court with congruent ideological outputs, but support governors when they challenged opposed governors.

## Discussion and conclusion

The dynamics surrounding the Supreme Court and executives of the United States reveal a complex interplay between their formal authority and the enforcement of Court decisions. The past few years have seen a volatile atmosphere for the Court, and what we used to know about the way in which their decisions are enforced could change. Despite being one of the three pillars of the U.S. government, the Court lacks direct enforcement powers, relying on collaboration with other governmental entities to give life to its rulings. This collaborative approach underscores the intricate balance of power within the American political system.

Traditionally, the Supreme Court has enjoyed high levels of public approval and legitimacy, which have contributed to the successful enforcement of its decisions. However, recent years have witnessed a notable shift in this landscape. Controversial rulings, coupled with intensified political polarization and heightened public engagement through various media platforms, have catalyzed a surge in discontent and criticism directed at the Court. Recent Supreme Court decisions have exacerbated the decline in the Court's approval ratings, reaching historic lows. Polls show, at least among Democrats, a growing disillusionment with the Court.

Here, we provide evidence that partisans react to the messages from partisan elites, in line with nearly all our hypotheses. In terms of support of executive sanction behavior (going public and ignoring a decision), partisans increase their support of the activity when they read about the challenges their party faced in the news but decrease support of the activity if they read that the out-party faced challenges. We also find that partisans will reward candidates by voting for them if they have offered to ignore a Court decision that harmed the participant's party. Finally, we see that partisans reward or punish the Court in terms of specific support in line with our hypotheses. We find some evidence that partisans decrease support of the Court when the Court has ruled against their party but increase their support if the Court ruled against the out-party.

Our research sheds light on the evolving relationship between the Supreme Court and the broader American public. The shifting landscape of public sentiment, driven by contemporary political dynamics and amplified through various communication channels, presents new challenges and opportunities for the Court and executive leaders alike. As the nation navigates this intricate terrain, it becomes imperative to recognize and continue to examine the delicate equilibrium between institutional authority and public perception. Our findings have implications for the discussion of Court legitimacy; continued fluctuations in approval of the Court based on the framing by executives can lead to a future of decreased institutional legitimacy in which executives have great leeway in

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<sup>24</sup> Although we report two-tailed coefficients throughout, all our hypotheses are directional and one-tailed *p* values are appropriate. The one-tailed *p* value is .062; some might not call this statistically significant, but we will leave it to the reader to determine their own threshold.

responding to Court. We find that these executive actions that threaten the institutional legitimacy of the Court are indeed rewarded. Future political science research must explore further just how likely events like ignoring Supreme Court decisions are to happen, and, when elected officials will reap electoral reward for engaging in such behavior. We may already be at such a state in American politics, which would have major implications for how our government works for years to come.

**Data availability statement.** All replication materials are available on the Journal's Dataverse archive.

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