

To Signal or Not to Signal: Effects of Campaign Finance Regulations on State Supreme Court Signaling

Marcy Shieh

University of Wisconsin-Madison

How do campaign finance regulations influence signaling behavior on the state supreme courts?

Lower court justices may respond to campaign finance rules in politician-like ways, which have ramifications for judicial opinion writing behavior. This question is important because it evaluates whether justices circumvent regulations to achieve their electoral goals OR leverage the lack of regulations to maximize their number of voters and donors.

Re-election Matters & Motivates Signaling



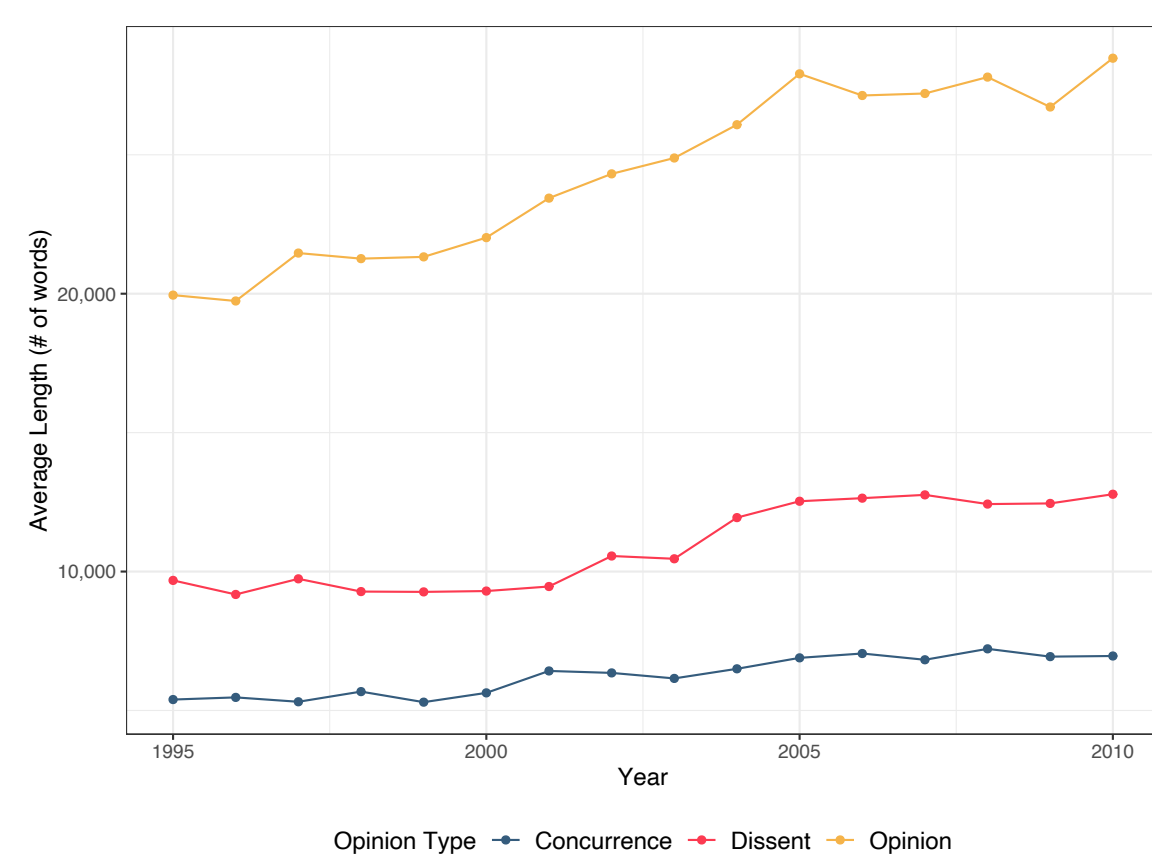
Signs instruct customers to wear face masks and maintain social distancing Tuesday, Feb. 23, 2021, in Madison, Wis. Angelo Major/WPR
Wisconsin Supreme Court Strikes Down Statewide Mask Mandate
Supreme Court Rules Against Gov. Tony Evers, Limits Emergency Powers
By Laurel White and Rich Kremer
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- Elected justices are not only constrained by the law, but by their stakeholders
- Previous research shows that justices act differently in re-election years, especially with criminal cases [2]
- When there are more regulations, justices overcome the regulations by signaling from the bench as they approach re-election [1]
- When there are less regulations, justices maximize the number of voters and donors from their state institutional contexts as they approach re-election [4]

Separate Opinion Writing is High Cost

Fabick v. Evers (Wisconsin mask mandate case) excerpts

- Majority.** "The question in this case is not whether the Governor acted wisely; it is whether he acted lawfully. We conclude he did not."
- Concurrence.** "Any exercise of executive power in the name of the COVID-19 pandemic beyond that date is unlawful unless the people consent..."
- Dissent.** "Unfortunately, the ultimate consequence of the majority's decision is that it places yet another roadblock to an effective governmental response to COVID-19..."

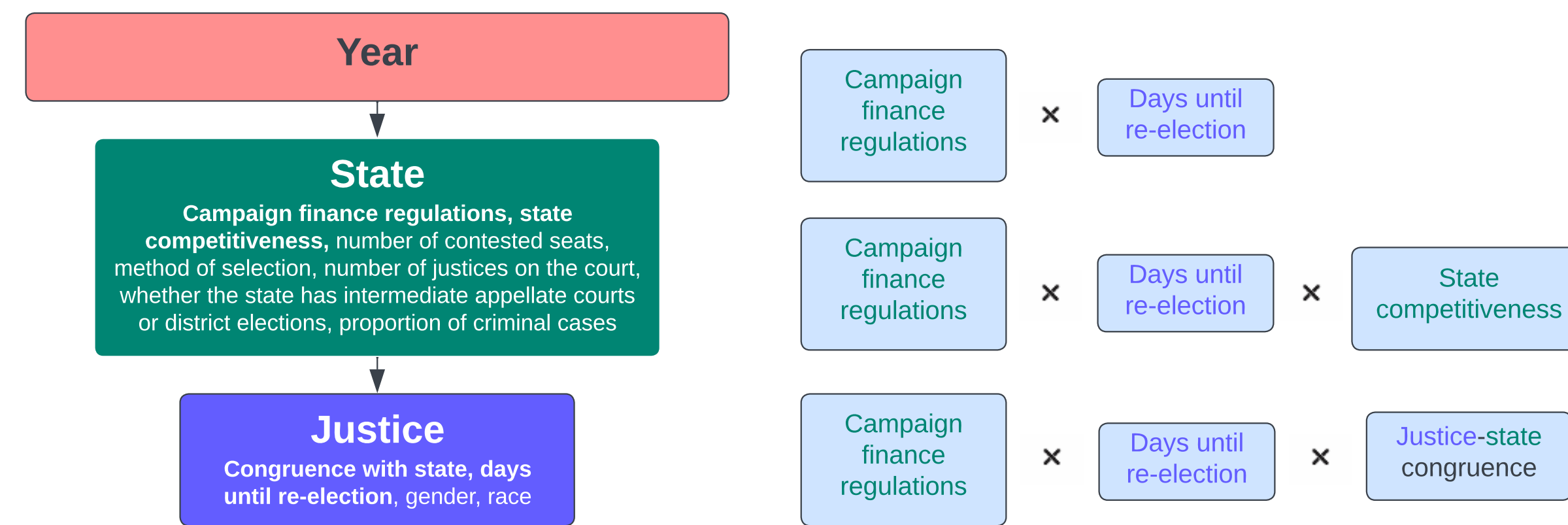


Separate opinion calculated from Windett & Hall's state supreme court data [3] A separate opinion (dissenting or concurring) can take up to half the time of writing a majority opinion, making it more time-consuming than participating in oral arguments and casting votes.

Required Variables

- Campaign finance regulations.** From 1995-2010 [7]: 1) contribution limits (e.g., contribution limits no individuals, corporations, labor unions, etc.); 2) disclosure (e.g., reporting on expenditures and contributions); 3) public interest and expenditure limits (e.g., expenditure limits and public financing system)
- Days until re-election.** Novel dataset of the number of days a justice has until re-election
- State competition** How competitive a state is, regardless of party [5]
- State congruence.** e.g., justice is "congruent" with state if justice votes liberally [6] and the state had a higher percent of Democratic votes for state and federal offices [5]

Data and Methods



Estimated Models

Dataset contains justice-case dyads, indicating whether a justice wrote a separate opinion (or not). I use a hierarchical linear model since the dataset is nested

Model 1: Regulations x Days

$$\text{separate_opinion}_{ij} \sim \text{Binomial}(n = 1, \text{prob}_{\text{separate_opinion}=1} = \hat{P})$$

$$\log \left[\frac{\hat{P}}{1 - \hat{P}} \right] = \alpha_{j|l,k|l|l} + \beta_1(\text{days})$$

$$\alpha_j \sim N(\gamma_0^j + \gamma_1^j(\text{reg}) + \gamma_2^j(\text{days} \times \text{reg}) + \gamma_3^j(\text{days} \times \text{reg}) + \gamma_4^j(\text{comp} \times \text{reg}) + \gamma_5^j(\text{comp} \times \text{days}) + \gamma_6^j(\text{comp} \times \text{days} \times \text{reg}), \sigma_{\alpha_j}^2)$$

$$\alpha_k \sim N(\mu_{\alpha_k}, \sigma_{\alpha_k}^2), \text{ for state } k = 1, \dots, K$$

$$\alpha_l \sim N(\mu_{\alpha_l}, \sigma_{\alpha_l}^2), \text{ for year } l = 1, \dots, L$$

Model 2: Regulations x Days x Competition

$$\text{separate_opinion}_{ij} \sim \text{Binomial}(n = 1, \text{prob}_{\text{separate_opinion}=1} = \hat{P})$$

$$\log \left[\frac{\hat{P}}{1 - \hat{P}} \right] = \alpha_{j|l,k|l|l} + \beta_1(\text{days})$$

$$\alpha_j \sim N(\gamma_0^j + \gamma_1^j(\text{reg}) + \gamma_2^j(\text{comp}) + \gamma_3^j(\text{days} \times \text{reg}) + \gamma_4^j(\text{comp} \times \text{reg}) + \gamma_5^j(\text{comp} \times \text{days}) + \gamma_6^j(\text{comp} \times \text{days} \times \text{reg}), \sigma_{\alpha_j}^2)$$

$$\alpha_k \sim N(\mu_{\alpha_k}, \sigma_{\alpha_k}^2), \text{ for state } k = 1, \dots, K$$

$$\alpha_l \sim N(\mu_{\alpha_l}, \sigma_{\alpha_l}^2), \text{ for year } l = 1, \dots, L$$

Model 3: Regulations x Days x Congruence

$$\text{separate_opinion}_{ij} \sim \text{Binomial}(n = 1, \text{prob}_{\text{separate_opinion}=1} = \hat{P})$$

$$\log \left[\frac{\hat{P}}{1 - \hat{P}} \right] = \alpha_{j|l,k|l|l} + \beta_1(\text{days})$$

$$\alpha_j \sim N(\gamma_0^j + \gamma_1^j(\text{reg}) + \gamma_2^j(\text{cong}) + \gamma_3^j(\text{days} \times \text{reg}) + \gamma_4^j(\text{cong} \times \text{reg}) + \gamma_5^j(\text{cong} \times \text{days}) + \gamma_6^j(\text{cong} \times \text{days} \times \text{reg}), \sigma_{\alpha_j}^2)$$

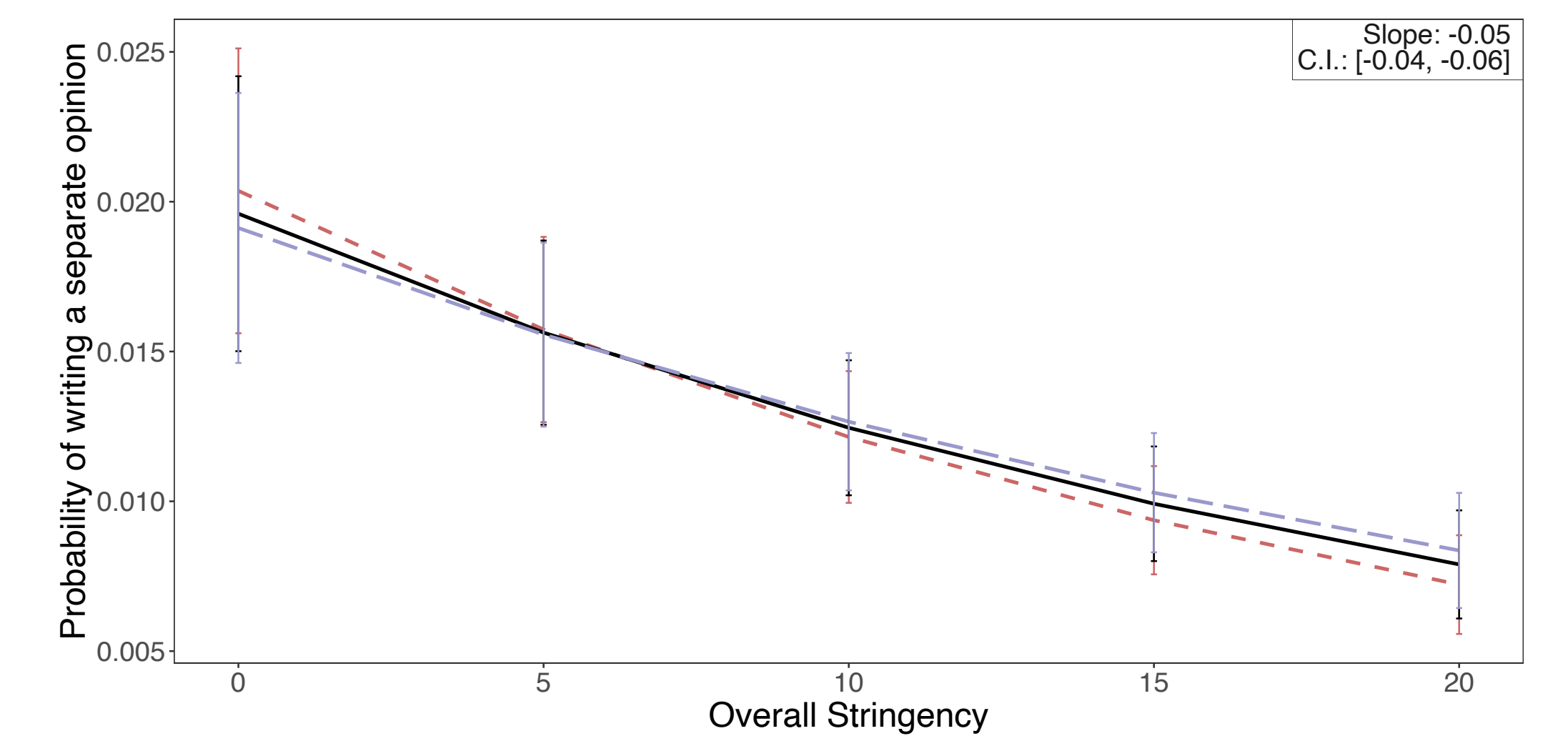
$$\alpha_k \sim N(\mu_{\alpha_k}, \sigma_{\alpha_k}^2), \text{ for state } k = 1, \dots, K$$

$$\alpha_l \sim N(\mu_{\alpha_l}, \sigma_{\alpha_l}^2), \text{ for year } l = 1, \dots, L$$

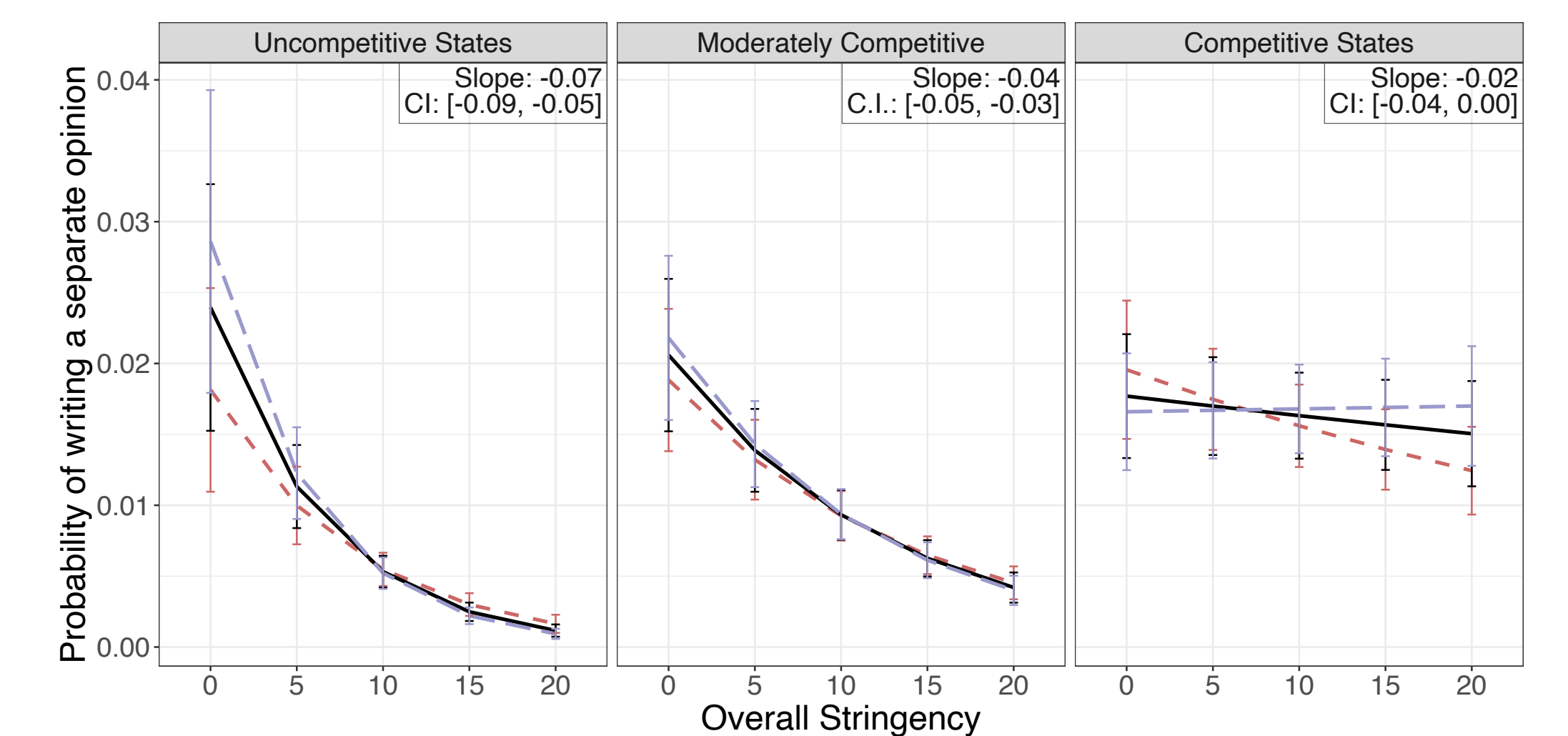
Conclusion: Justices in states with fewer regulations signal more as they get closer to re-election

Justices write separate opinions as they approach re-election depending on the context of the state, including institutional rules, electoral competitiveness, and their views relative to the views of their constituents. Justices are more likely to put in the time to draft a separate opinion if the state institutional context has fewer regulations and allows them to maximize voters and donors.

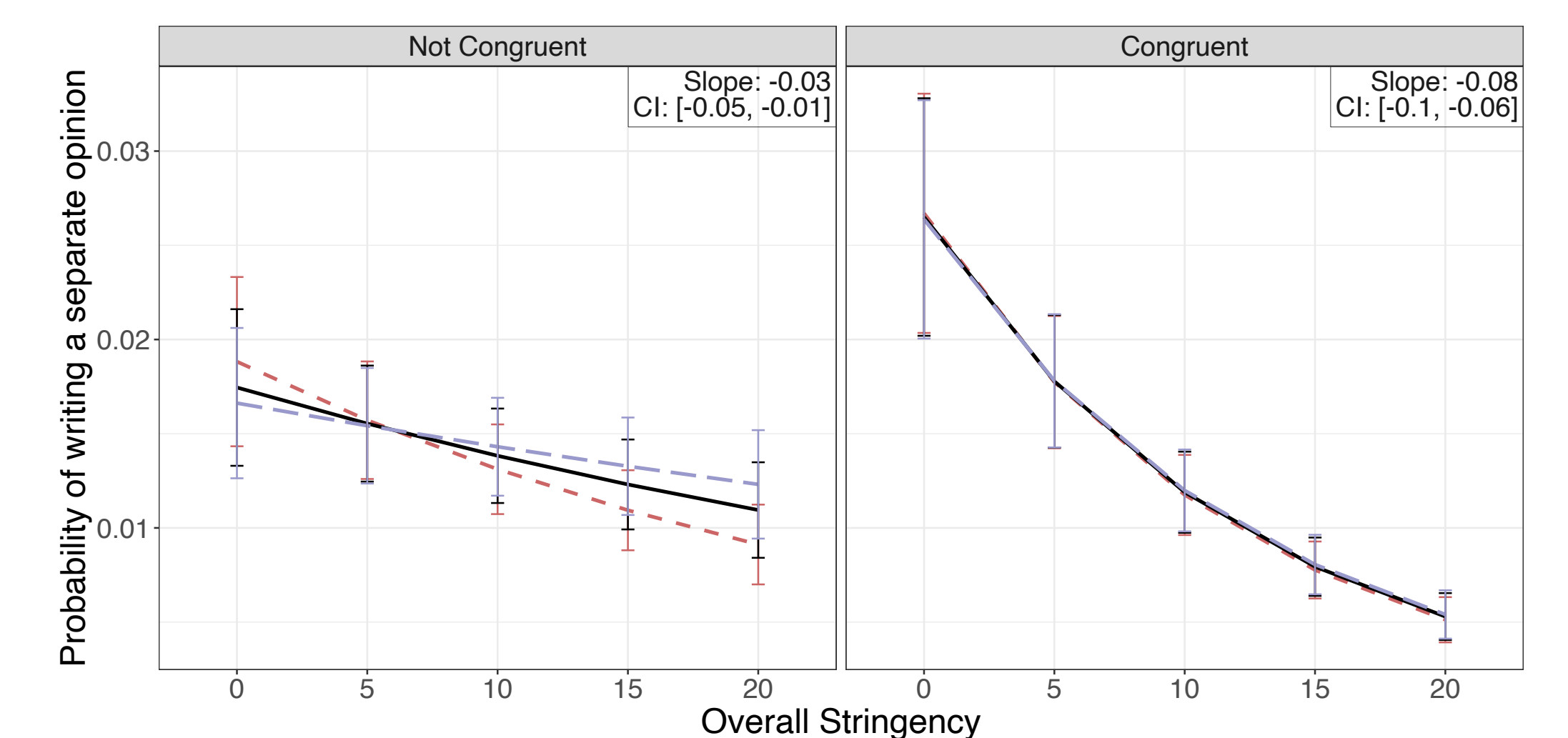
Results: Justices respond to campaign finance regulations based on state and electoral contexts



Justices who live in states with fewer campaign finance regulations signal more as they approach re-election.



Justices who live in states with fewer campaign finance regulations AND live in states that are electorally competitive signal more as they approach re-election.



Justices who live in states with fewer campaign finance regulations AND live in states that are ideologically incongruent to their views signal more as they approach re-election.

[1] Ryan C. Black and Ryan J. Owens. Counting the president: how state court judges alter their behavior for reelection to the supreme court. *American Journal of Political Science*, 63(2):300–312, 2015.
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[6] Jason M. Weisburd, Jeffrey J. Brinkman, and Matthew E. A. Hall. Estimating dynamic ideal points for state supreme courts. *Political Analysis*, page 411–440, 2015.
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