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The Ideological Operation of the United States Supreme Court

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The Ideological Operation of the United States Supreme Court

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Spring 2011

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Abstract

The United States Supreme Court is one of the most influential government institutions in America. As gatekeepers of our nation's integrity, they are expected to bypass their own beliefs on certain issues and make decisions based purely on precedence and the laws of the Constitution of the United States. But how much of a Supreme Court justice's decision is influenced by his or her personal ideology? This paper seeks to determine if a significant correlation exists between a given justice's ideology and their voting patterns by analyzing death penalty decisions specifically. Analysis was conducted by finding an external rating for each justice's ideology, called Martin-Quinn scores, and comparing them with a "conservativeness scale" that was derived from 25 death penalty decisions. The results show that a strong correlation exists between a Supreme Court justice's ideology and the way they vote in death penalty cases. The findings of this project bring to light other serious questions: Based on the pattern of voting, can we say that the Supreme Court – theoretically the most objective American institution – can ever be truly unbiased? Is this expectation of objectivity realistic? Are the biases that are manifested in the Supreme Court's decisions a violation of American democracy?

I. Introduction

The United States Supreme Court is the most powerful entity in our government. The Supreme Court has the right and the power to review the constitutionality of laws that are passed by Congress, decisions that are made by lower courts, and even actions made by the president. These powers cannot be superseded by any other entity and there is no real check on Supreme

Court decisions. It is for this reason that the United States Supreme Court is both one of the most interesting and most controversial government institutions in America.

This paper aims to identify the ideological tendencies of Supreme Court justices in their decision making and how those tendencies obstruct justices from making fair and accurate interpretations of the United States Constitution. The goal of this thesis paper is to analyze the decisions made by Supreme Court justices and to attempt to find a pattern in the way they vote on certain issues. I will track the votes cast in Supreme Court death penalty decisions and match those votes along the ideological lines of each justice. If there is a pattern in the way that justices vote, can we say that our Supreme Court – which is supposed to be the most objective institution in our American government – can ever be truly unbiased? If the Supreme Court cannot stand as the ultimate fair and impartial interpreter of our nation's Constitution, are the biases manifested in these decisions a violation of American democracy?

Background

The position of a Supreme Court justice is a prestigious one that begins with the current President's nomination. The President may receive suggestions or recommendations from his advisors or he may already have a certain individual in mind. Many times, Supreme Court justices are nominated on the basis of their own political and personal connections with the President or based on their experience in a lower U.S. court.

After the President has made his nomination, the Senate then must approve the nomination by a majority vote (51 votes). This involves review of the Senate Judiciary Committee, which considers the individual's background information gathered by the Federal

Bureau of Investigation and judicial record. The Committee also conducts an interview with the nominee to learn more about their political philosophy and ideology. If the Committee decides to make a recommendation for the nominee, they send the vote to the Senate floor.

A remarkable aspect of the Supreme Court justice's position is that once they are nominated and receive a majority of votes in the Senate, they cannot be unseated. A justice is expected to hold a seat on the Court for the rest of his natural life or until he or she wishes to retire from the position. The goal of this process is to ensure that political or social pressure surrounding Court decisions does not affect the decision making of Supreme Court justices. Ultimately, the non-election appointment process and the protection from removal of office are meant to guarantee that each justice interprets the Constitution fairly.

With a total of nine sitting justices, the decisions made are directly affected by the ideological majority that is sitting at that time. For the purpose of this paper, I will be analyzing the Supreme Court justices from the late 1960s through the early 1990s. During these years, there are three separate instances that the Court rendered decisions and then shortly after overturned them. By looking at the sitting justices during these years and the balance of ideologies that existed, it becomes evident that the overturning of the three specific cases was the cause of a change in the balance of the Court's ideological make-up.

In 1968, a liberal Court decided 6-3 in *Witherspoon v. Illinois*, (391 U.S. 510) that a prospective juror cannot be removed from the panel "for cause" simply for voicing objections to the death penalty (391 U.S. 510). Years later in 1986, the conservative Burger Court overturned its prior decision in *Witherspoon*. In *Lockhart v. McCree* (476 U.S. 162), the Court decided that a prospective juror may be excused "for cause" if his opposition to the death penalty would

impair his performance to decide death in the sentencing phase of a capital trial (476 U.S. 162).

Figure 1 shows the difference in the ideological make-up of the Supreme Court in the years that *Witherspoon* and *Lockhart* were decided. With the exception of Justices Brennan, Marshall, and White, an entirely new court decided *Lockhart*. Of the six new justices, Justices Rehnquist and Burger were conservatives. The remaining four – Justices Stevens, Blackmun, O’Connor and Powell – were traditionally moderate but voted with the conservatives in the case. The swing of the Court to a conservative majority caused *Witherspoon v. Illinois* (1968) to be overturned.

Figure 1. Ideological Differences 1968 vs. 1986

Witherspoon v. Illinois (1968)		Lockhart v. McCree (1986)	
Majority	Dissent	Majority	Dissent
Warren (L)	Black (C)	Burger (C)	Brennan (L)
Douglas (L)	Harlan (C)	White (M)	Marshall (L)
Brennan (L)	White (C)	Blackmun (M)	Stevens (M)
Stewart (M)		Powell (M)	
Fortas (L)		Rehnquist (C)	
Marshall (L)		O’Connor (M)	

In 1982, the Supreme Court was ideologically balanced with two consistent liberals and two consistent conservatives. Four justices were considered as moderate, two of which usually voted liberal and two who usually voted conservative. Justice White, a moderate, served as a swing vote on this Court for years. In a 5-4 decision in *Edmund v. Florida* (1982), Justice White sided with the liberals. The Court held that it was unconstitutional to put someone to death for a murder that they did not “actually” or “intentionally” commit (458 U.S. 782). Only five years later in another 5-4 decision, the Court overturned its decision in *Edmund* with the help of Justice

White’s swing to a conservative vote (see **Figure 2**). It held in *Tison v. Arizona* (1987) that a major participant in a felony murder who did not actually commit the murder may be sentenced to death if he showed a “reckless indifference for human life” (481 U.S. 137). In this situation, a swing to conservative vote of an ideological moderate reversed one of its prior landmark death penalty decisions.

Figure 2. Ideological Differences 1982 vs. 1987

Edmund v. Florida (1982)		Tison v. Arizona (1987)	
Majority	Dissent	Majority	Dissent
White (M)	O’Connor (M)	O’Connor (M)	Brennan (L)
Brennan (L)	Rehnquist (C)	Rehnquist (C)	Blackmun (M)
Blackmun (M)	Burger (C)	Scalia (C)	Stevens (M)
Stevens (M)	Powell (M)	Powell (M)	Marshall (L)
Marshall (L)		White (M)	

A change in the ideological balance of the Supreme Court overturned a decision again in 1991 (see **Figure 3**). Four years earlier in 1987, the Court decided in *Booth v. Maryland* that the Constitution prohibits a jury from considering victim impact statements during the sentencing phase of a capital trial (482 U.S. 496). At the time of this decision, there was a balance between liberals and conservatives with three moderate justices. In *Booth*, moderate Justices Powell and Stevens voted with the liberals. However, by 1991 the dynamic of the Court had changed. Justices Powell and Brennan left and were replaced by Justices Kennedy and Souter, who were both conservative. When *Payne v. Tennessee* came before the Supreme Court, it was able to reconsider the issue of victim impact statements in death penalty cases. The newly conservative Court overturned the decision in *Booth*. It decided that the Eighth Amendment did not prohibit a

jury from considering victim impact statements because this type of evidence shows the victim’s “uniqueness as a human being” (501 U.S. 808).

Figure 3. Ideological Differences 1987 vs. 1991

Booth v. Maryland (1987)		Payne v. Tennessee (1991)	
Majority	Dissent	Majority	Dissent
Powell (M)	White (M)	Rehnquist (C)	Marshall (L)
Brennan (L)	Rehnquist (C)	White (M)	Blackmun (M)
Marshall (L)	O’Connor (M)	O’Connor (M)	Stevens (M)
Blackmun (M)	Scalia (C)	Scalia (C)	
Stevens (M)		Kennedy (C)	
		Souter (C)	

These instances in which a change in the ideological make-up of the Supreme Court completely reverses prior Court decisions are significant. It shows first and foremost that aside from the traditionally moderate justices, the votes of consistently liberal and consistently conservative justices are relatively predictable. Moreover, this type of pattern suggests that rather than interpreting the Constitution the way the founding fathers meant it to be interpreted, liberal and conservative justices are using their own personal values and beliefs to decide federal cases that come before them. Ideally, each and every justice appointed to the Supreme Court would act as a “swing vote” – the decision they make in a particular case would depend wholly on the facts of that case and in what ways the Constitution applies. Instead, the instances discussed above suggest that in reality, the Constitution is what those nine people sitting on the Court at the time say it is.

II. Prior Research on the Topic

The issue of Supreme Court justices making decisions on an ideological basis rather than impartially is not a new concept. In 1989, Jeffrey A. Segal and Albert D. Cover performed studies that attempted to analyze the relationship between Supreme Court justices' ideological values and how they voted. The study, entitled *Ideological Values and the Votes of Supreme Court Justices*, sought to test the "common assumption that Supreme Court justices' votes directly reflect their attitudes, values, and personal policy preferences" (Segal & Cover, 557).

In order to perform the study, Segal and Cover used content analysis techniques to derive independent and reliable measures of the values of Supreme Court justices. In what they called the "attitudinal model," the authors strived to determine the effect the justices' attitudes on their decision making. To do this, they first had to find a way to measure the values of the justices. After weeding out possible ways of measuring such values, the authors used newspaper articles containing ideological content on all Supreme Court justices from Earl Warren to Anthony Kennedy.

Segal and Cover used two newspapers with liberal stances (the *New York Times* and *Washington Post*) and two with conservative stances (the *Chicago Tribune* and *Los Angeles Times*). To conduct the content analysis, each paragraph of articles about Supreme Court justices' nominations was coded for political ideology by counting the number of liberal, conservative, or moderate statements made by the justice. The authors then plugged the numbers derived from the content analysis into a mathematical formula to create reliable measurements of each justice's ideological values.

The scores of the content analysis were believed to be accurate measures of the perceptions of the justices' values at the time of their nominations. Justices Marshall and Brennan were the most liberal and Justices Scalia and Rehnquist were the most conservative. The dependant variable in the study were the votes of all justices appointed since the beginning of the Warren Court in all cases involving civil liberties (since all coded newspaper articles included the discussion of civil liberties).

Segal and Cover found the results of the study to be straightforward. They concluded that "the correlation between the ideological values of the justices and the way they voted in civil liberties cases" was significant (Segal & Cover, 561). Overall, the results provided exceptional support for the attitudinal model as applied to civil liberties cases.

More recently in 2009, Tom S. Clark published an article in *Political Research Quarterly* that addressed the polarization of Supreme Court justices' ideologies and its effect on policy output. The article, entitled *Measuring Ideological Polarization on the United States Supreme Court*, uses prior content analysis information like the study performed by Segal and Cover to make new theorizations about the relationship between ideological polarization and Supreme Court justices' decision making.

In addition to these earlier studies, Clark also developed a polarization measure to help in his analysis. He predicted that "the greater the degree of ideological divergence among a set of justices, the less likely those justices will be to join a common opinion" (Clark, 153). Clark's results supported these predictions; the study suggested "that the polarization statistic is in fact a strong predictor of divisive decision making on the Supreme Court" (Clark, 152). Clark also

concluded that a positive relationship existed between the level of ideological polarization on a Court and the number of cases decided by a one-vote margin (5-4 decision).

III. Methodology

This thesis project attempts to identify a significant relationship between a Supreme Court justice's ideology and the way that justice votes in death penalty cases. In order to perform an experiment, I first needed to find a way to give a numerical value to the justices' ideologies. Since earlier experiments with similar thesis (like Segal and Cover) used the expressed written opinions of Supreme Court justices in newspaper articles to formulate ideological measures, I considered this tactic. However, I found that such a task would be nearly impossible simply because the death penalty as a political issue is not a widely discussed one. Compared to Segal and Cover's undertaking to analyze civil liberty articles, the odds of finding a large enough sample size of articles regarding each Supreme Court justice's ideological stance on the death penalty are slim. For this reason, analyzing the death penalty opinions of Supreme Court justices to create an ideological measure would not have worked for this project.

I next considered using the ideology or political party affiliation of individual nominating presidents to measure ideological values. This option quickly proved to be a poor one. United States presidents have the power to make nominations for Supreme Court appointments. They are known to make these nominations based on the ideology and decision-making history of a candidate. However, many times that justice (once approved by Congress) sets forth decisions that are completely contrary to the ideological and political trends of the president that nominated them. Justice Byron White, nominated by Democratic president John F. Kennedy,

was notorious for making difficult decisions and often voted with the right wing on many controversial issues. Likewise, Sandra Day O'Connor was nominated by Republican president Ronald Regan, but often had the swing vote in the later years of her seat on the Court. Since the ideology and political party affiliation of presidents proved to be an inaccurate indicator of how a Supreme Court justice would make decisions once appointed, this measure would not provide an accurate numerical value of a justice's ideology.

Empirical articles and presidential ideologies falling short, I decided to look at the way each justice voted in lower court decisions to measure their individual ideological values. I first considered researching how each justice (beginning with William Brennan and ending with John Roberts) voted on particular issues. For example, the research would include the way each justice voted on cases involving civil liberties in a specific time frame. The analysis would include adding up the number of times each justice voted either conservatively or liberally and then creating a numerical value of individual ideology out of those summations. This tactic posed a few problems and disadvantages. Primarily, researching and recording every justice's voting history in a particular topic area would be incredibly time-consuming. Secondly, pulling decisions from only one area of law would create an inaccurate sample size since I would be using only civil liberty cases to define each justice's ideological stance. The thesis would then be measuring the strength of the voting relationship between civil liberty cases and death penalty cases, rather than measuring the strength of the relationship between a justice's ideology and the way he or she votes in capital cases.

I ultimately decided that analyzing the voting patterns of each justice in lower court decisions would provide the most accurate numerical value for ideology, but that using an external measurement would eliminate the problems I would otherwise face by performing my

own research. An external rating of the ideological measures of Supreme Court justices would certainly have more validity than conducting my own research on lower court decisions.

The external measurements that I chose to use for this project are called Martin-Quinn scores. These scores were developed by political scientists Andrew Martin (Washington University School of Law) and Kevin Quinn (UC Berkley School of Law) in 2008 and are updated on a yearly basis. Martin and Quinn sought to measure the relative location of United States Supreme Court justices on an ideological continuum in order to better understand the politics of the high court and to create a building block for other statistical models of the Supreme Court (Martin and Quinn).

The two datasets created contain scores for the October 1937 through October 2010 term of the United States Supreme Court. For the purpose of this thesis paper, I utilized only the information from 1956 (the beginning of William Brennan's term) until 2010 since my analysis of Supreme Court death penalty decisions starts with the Court's 1968 decision in *Witherspoon v. Illinois*. The data collected does not include analysis on the decisions made by Sonia Sotomayor (appointed to the Court in 2009) or Elena Kagan (appointed to the Court in 2010) because there is not enough data available to create an accurate ideological value. The "Court" dataset contains court-specific quantities and were therefore irrelevant for deciphering the numerical value of ideology. Instead, I was able to utilize the "Justices" dataset, which contained the ideal point estimates for each justice in each term. On the ideological scale devised by Martin and Quinn, the overall minimum score of -6.36 represented the most liberal score on the spectrum, while the overall maximum score of 4.38 represented the most conservative score. Based on this spectrum, a justice's "ideal point" essentially refers to their

ideological score based on past decisions. Martin and Quinn recommend using the posterior mean (*post_mn*) in the Justices dataset as the estimate ideal point of each justice in each term. Since Martin and Quinn provided the ideal points for each year of a justice's term, I simply averaged the ideal points together to create one single ideal point that would serve as the independent variable (ideological value for each justice). Since Martin and Quinn update the scores yearly, their work provides me with a current and valid external ideology rating.

Once I was able to create a single value for the independent variable, I then had to generate a way of giving a numeric value to the dependent variable – the way each justice voted in Supreme Court death penalty cases between the years of 1968 and 2009. A total of 25 landmark cases were reviewed and analyzed: *Witherspoon v. Illinois* (1968), *McGautha v. California* (1971), *Furman v. Georgia* (1972), *Gregg v. Georgia* (1976), *Coker v. Georgia* (1977), *Lockett v. Ohio* (1978), *Beck v. Alabama* (1980), *Edmund v. Florida* (1982), *Florida v. Wainwright* (1986), *Tison v. Arizona* (1987), *McKlesky v. Kemp* (1987), *Stanford v. Kentucky* (1989), *Penry v. Lenauh* (1989), *Herrera v. Collins* (1993), *Schlup v. Delo* (1995), *Atkins v. Virginia* (2002), *Tennard v. Dretke* (2004), *Roper v. Simmons* (2005), *Oregon v. Guzek* (2006), *Kansas v. Marsh* (2006), *House v. Bell* (2006), *Medellin v. Texas* (2008), *Baze v. Rees* (2008), *Kennedy v. Louisiana* (2008), and *Harbison v. Bell* (2009).

Data collection included going through each decision individually and tallying the number of liberal votes and conservative votes each justice cast. Once each of the cases was analyzed, I then was able to give a proportion of the number of conservative votes for each of the 17 justices. I translated this proportion to a percentage of conservative votes cast. Finally, I created my own “Conservativeness scale” by making that percentage a single number on a 1-10 scale. For example, Justice Byron White voted conservatively in 10 out of 14 of his decisions in

the death penalty cases chosen for analysis. This proportion was converted to a percentage of 71%, which on a 1-10 scale would translate into a conservativeness value of 7.1. On the scale created, a score of 0 represents a justice who voted very liberally in the death penalty cases, a score of 5 represents a justice who voted equally with the left and right wing blocks, and a score of 10 represents a justice who voted very conservatively. **Figure 4** displays the conservativeness scale created by the analysis of 25 death penalty cases compared with the Martin-Quinn scores.

Figure 4. Supreme Court Justice Death Penalty Decisions (Brennan-Roberts) compared with MQ Scores

Justice	Conservative Decisions	Liberal Decisions	Majority Ideology	Proportion Conservative	Cons. Scale	MQScore
Brennan	0	11	Liberal	0 of 11 - 0%	0	-1.76
White	10	4	Conservative	10 of 14 - 71%	7.1	0.44
Marshall	0	13	Liberal	0 of 13 - 0%	0	-2.84
Burger	6	2	Conservative	6 of 8 - 75%	7.5	1.85
Blackmun	2	11	Liberal	2 of 13 - 15%	1.5	-1.86
Powell	6	3	Conservative	6 of 9 - 67%	6.7	0.94
Rehnquist	16	0	Conservative	16 of 16 - 100%	10	2.84
Stevens	3	19	Liberal	3 of 21 - 14%	1.4	-1.51
O'Connor	8	3	Conservative	8 of 11 - 73%	7.3	0.9
Scalia	16	0	Conservative	16 of 16 - 100%	10	2.76
Kennedy	7	7	Moderate	7 of 14 - 50%	5	0.89
Souter	0	12	Liberal	0 of 12 - 0%	0	-0.81

Alito	5	0	Conservative	5 of 5 - 100%	10	1.77
Thomas	11	1	Conservative	11 of 12 - 92%	9.2	4.02
Ginsburg	1	10	Liberal	1 of 11 - 9%	0.09	-1.51
Breyer	1	10	Liberal	1 of 11 - 9%	0.09	-0.93
Roberts	5	2	Conservative	5 of 7 - 71%	7.1	2.00

The Martin-Quinn scores and the conservativeness scale provided me with single numbers for both my dependent and independent variable for each justice. Once I created these, I was able to code the variables and run a correlation on them in SPSS to decide if a significant relationship existed between them. The conservativeness scale, which represents the way each justice voted in death penalty cases (dependent variable x), was coded by giving .00 as the value for very liberal, 5.00 as the value for moderate, and 10.00 as the value for very conservative. Ideology (independent variable y) was coded by giving each individual ideal point value (or Martin-Quinn score) the label to which it corresponds. For example, Justice Marshall’s MQ score was -2.84, so the ideology variable was given the value of -2.84 and labeled “Marshall.”

IV. Results

After running the correlation between Supreme Court justices’ ideology and the way they voted in death penalty cases, I found that there was a significant relationship between the two variables. **Figure 5** shows the correlation between the independent and dependent variables.

Figure 5. Correlation Table

		Correlations	
		justice ideology	way they voted in death penalty cases
justice ideology	Pearson Correlation	1	.926**
	Sig. (2-tailed)		.000
	N	17	16
way they voted in death penalty cases	Pearson Correlation	.926**	1
	Sig. (2-tailed)	.000	
	N	16	16

** . Correlation is significant at the 0.01 level (2-tailed).

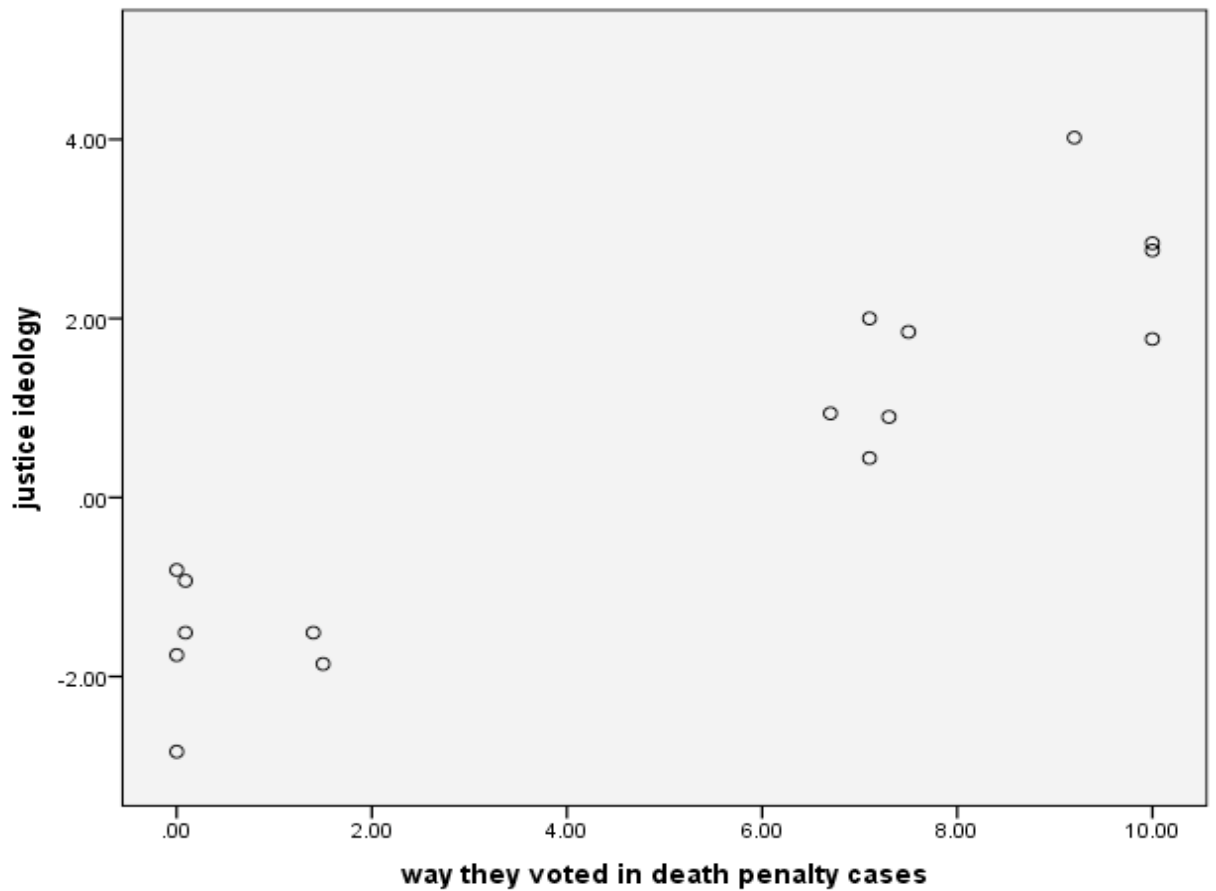
The first numbers at the top of the table are Pearson Correlation numbers. The Pearson Correlation numbers measure the strength and direction of the linear relationship between the two variables. The correlation coefficient can range from -1 to +1, with -1 representing a perfect negative correlation between the variables, a 0 representing no correlation at all between the variables, and +1 representing a perfect positive relationship between the variables. When a variable is correlated with itself, it will always have a correlation of 1, as shown in the top left and bottom right boxes of the SPSS correlation table in **Figure 5**. The correlation shows that justice ideology and the way they voted in death penalty cases have a Pearson Correlation of .926, which means that the variables have a strong correlation.

The next number on the table represents the p-value associated with the correlation that was run. If the p-value is greater than .05, the correlation is not significant and you must accept the null hypothesis. Since my hypothesis states that a direct correlation exists between ideology and voting in death penalty cases, the null would state that there is no significant correlation

between these variables. However, the correlation shows that the p-value is .000, which is less than .05. This means that the correlation is significant and that I can reject the null hypothesis.

I also ran the variables through a simple scatter plot on SPSS to visually display the direct relationship. From the scatter plot of the variables *ideology* and *death penalty voting* below, **Figure 6** shows that the points tend along a line that begins at the bottom left of the graph and ends at the top right of the graph. This is another way of showing that the relationship between the independent and dependent variables is positive.

Figure 6. Justice Ideology vs. Voting in Death Penalty Cases



V. Conclusion

Much research has been performed to identify the ideological tendencies of Supreme Court justices and the way those tendencies translate into decision making patterns. I have yet to find, though, any kind of research attempting to make a specific connection between justices' ideologies and their voting patterns in death penalty cases. It was this gap in research, matched with my interest in the death penalty in America, which motivated me to find out more about the relationship between the two. The goal of this research and analysis was a straightforward one: to discover whether or not a significant relationship exists between a Supreme Court justice's ideology and the way they vote in death penalty cases. Suspecting that, like most other areas of the law, a positive relationship did exist, I also wanted measure the strength of that relationship.

My findings that (1) there is a significant relationship between a justice's ideology and their voting patterns in death penalty cases on the Supreme Court and (2) that the relationship is a strong one were expected. However, the fact that this relationship exists suggests that Supreme Court justices are using the wrong criteria to make their decisions. The position of Supreme Court justice theoretically embodies complete and total partiality and devotion to interpreting the intentions of the founding fathers through the wording of the Constitution of the United States. It is doubtful that "We the People" view this type of decision-making by the government's highest court as fair. Perhaps the most useful consequence from studies and research such as the findings uncovered in this paper is that there is a problem with the Supreme Court system – it is not the unbiased entity that we say it is. Americans see the Supreme Court as nine of America's finest men and women, with the fanciest education and the highest principles, who work to uphold the integrity of the Constitution. In reality, a Supreme Court justice is only one person

whose right or left wing beliefs win him the president's support and who can impress enough members of Congress to be voted into a seat. The Supreme Court, like anything else, is political. Despite what we might want to believe as enthusiasts of our government, the justices that sit on that Court are subject to the same political influences and personal motivations as anyone else. This research is just another example of that fact.

This research and its findings are also important in the context of the death penalty specifically. The table displayed in Figure 4 shows that Justice Brennan and Justice Marshall voted liberally in 100% of the death penalty cases for which they heard. In their dissents, the basis of most of Brennan and Marshall's decisions is that they do not believe in the death penalty *per se*. This means that both believe the death penalty is wrong, so they are unlikely to ever enforce it. In any other state or federal capital case, an attorney has the power to oust any potential juror who voices such an opinion on the death penalty for fear that it is unfair to the defendant. Why, then, is a Supreme Court justice entitled to sit on our nation's highest court with such an opinion? A reasonable person would believe that if a practice is unfair to a defendant in a lower court, it most certainly would be unfair in a higher court as well. This is an issue that should warrant concern and that needs to be addressed in the near future.

Given the simplicity of the goals of this thesis, there are limitations to its interpretations. This thesis does not attempt to extend to a causal relationship between a justice's ideology and their voting patterns in death penalty cases. It merely aimed to establish a meaningful correlation between the variables. Therefore, there a need for future research that includes identification of a range of control variables so that causality can be tested. Until then, Americans are forced to answer the question: In our political world, can we reasonably expect

the members of the Supreme Court to act as unbiased interpreters? The findings of this study and many before it suggest that the answer is sad, but true.

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