Upperdogs Versus Underdogs

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Upperdogs versus underdogs: The strength of parties in drug-related closure cases
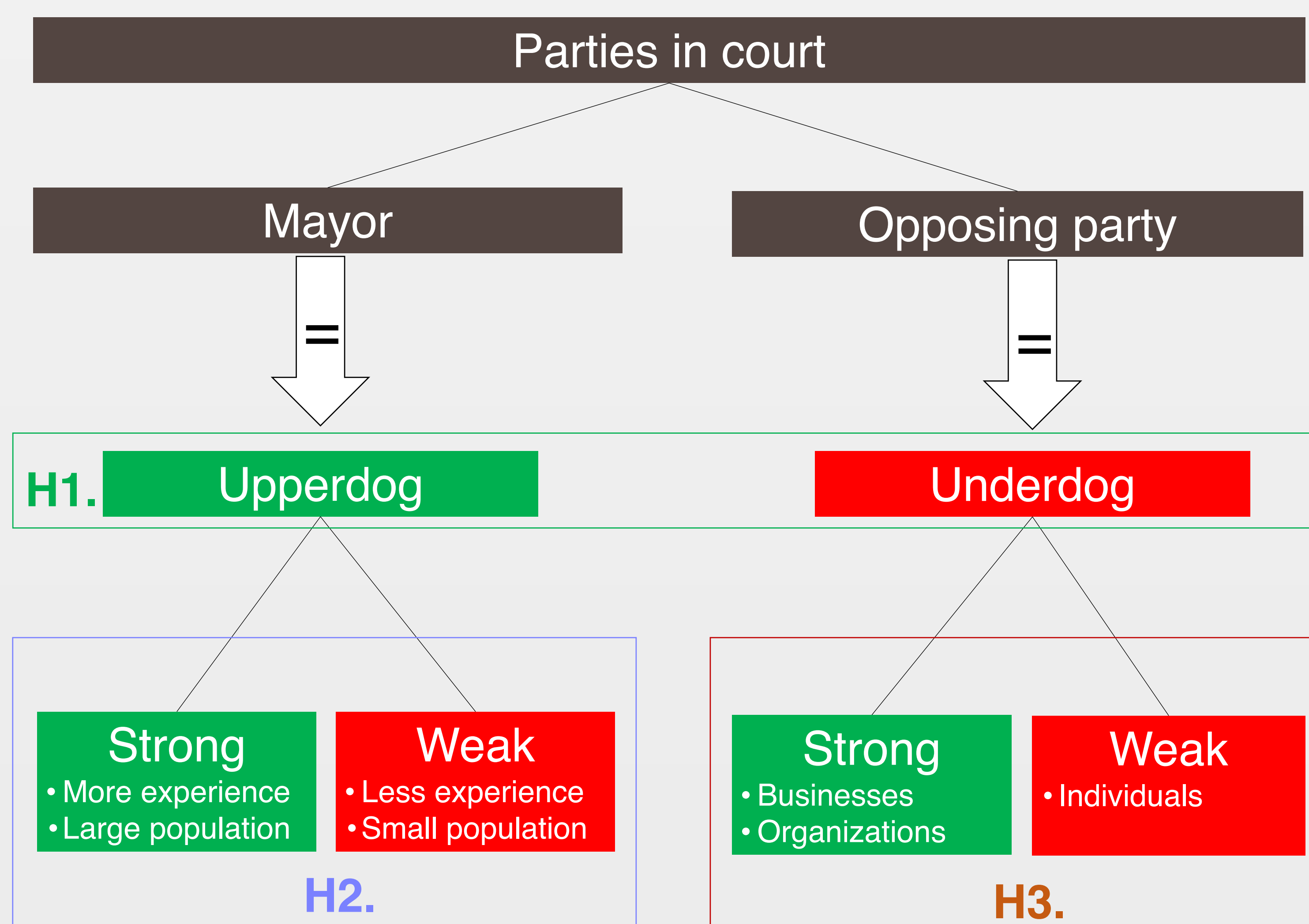
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Introduction

In the Netherlands, mayors are entitled to close both public and non-public premises, including private housing, due to drug-related criminal activities. Although rights and freedoms are endangered by these closures, previous studies on party capability lead to believe that the mayor is more likely to win in court than the individual contesting the closure. This study examines the relative success of the different types of litigants and the influence of case characteristics, such as the type of drugs, type of property, and invoked defenses in drug-related closure cases.

Hypotheses

```
                   Parties in court
                  /                \
            Mayor                    Opposing party
              |                          |
              =                          =
              ↓                          ↓
    H1.   Upperdog                    Underdog
        /          \                /          \
  Strong         Weak          Strong         Weak
 •More experience •Less experience •Businesses  •Individuals
 •Large population •Small population •Organizations
        H2.                           H3.
```

Methods

Statistical analysis of all published case law
- Retrieved from the website of the Dutch Judiciary
- Judgements of courts of first instance (district courts)
- Drug-related closure cases
- 2008 - 2016
- N=217
- Dependent variable: whether the upperdog won or lost the case. This is equal to whether the appeal was dismissed (=upperdog won) or allowed (=upperdog lost)

Results

H1. Upperdogs v underdogs

Fig 1. Number of wins (N=217)

p<0.001

- Upperdogs: 151
- Underdogs: 66
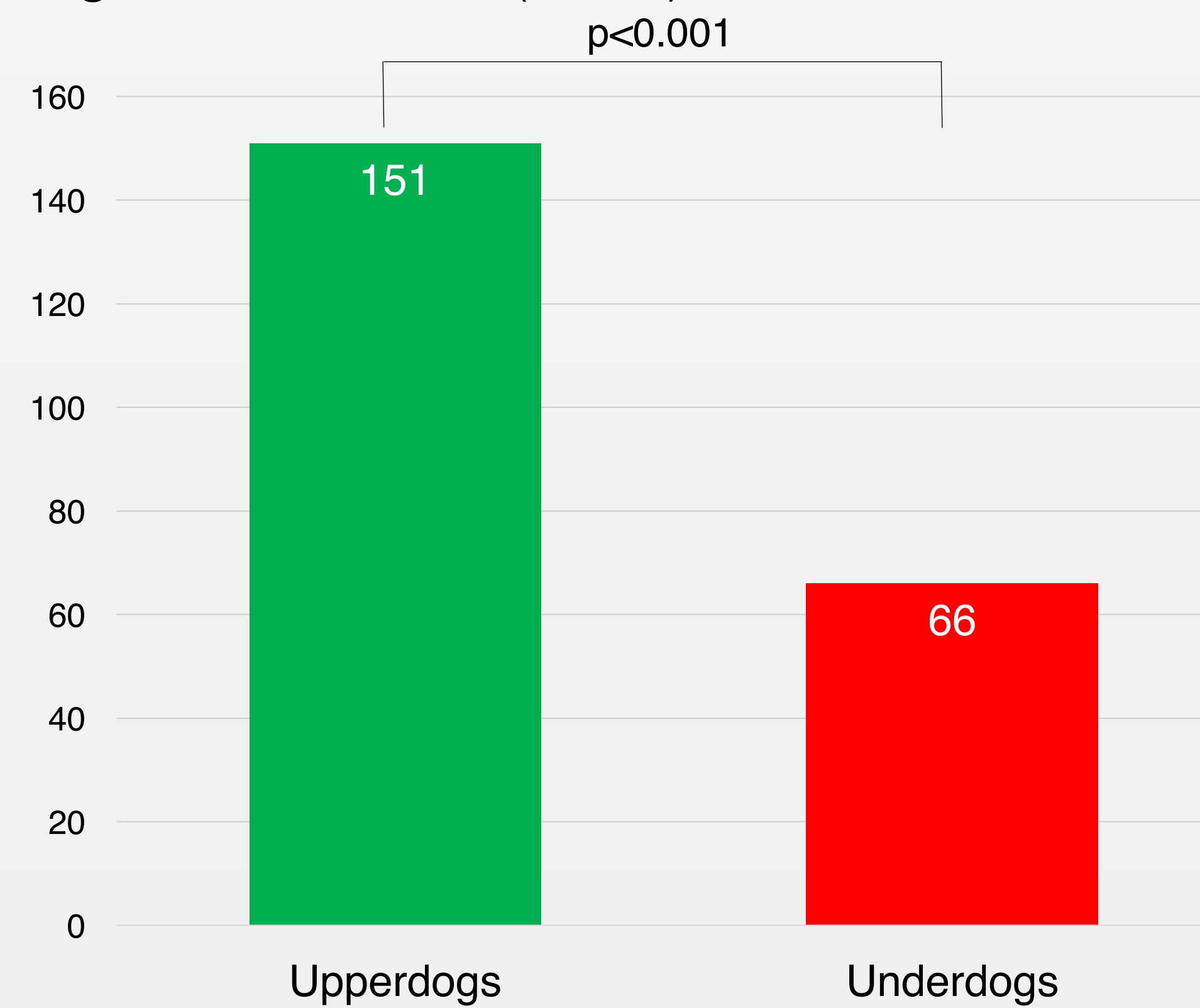
H2. + H3. Logistic Regression Results: Strength of Parties

Table 1. Predicting the probability an appeal will be denied for strong and weak upperdogs and underdogs

	Coefficients (SE)	P-value	N
H2. Upperdogs: strong versus weak			
Population size	0.44 (0.30)	0.148	211
Case-specific experience	-0.43 (0.36)	0.227	150
H2. Upperdogs: combined (reference = large and more experienced)			150
Large and less experienced	0.13 (0.45)	0.769	
Small and more experienced	-0.99 (0.05)	0.058	
Small and less experienced	-0.05 (0.56)	0.933	
H3. Underdogs			213
Strong versus weak underdogs	0.99 (0.31)	0.001	

Note: Estimated coefficients in log odds. Standard errors in parentheses.

Logistic Regression Results: Beyond Strength of Parties

Table 2. Predicting the probability of success for upperdogs among drug-related closure cases

	Model 1	Model 3	Model 5
Underdogs			
Strong versus weak underdogs	0.99** (0.31)	0.83 (0.74)	0.97 (0.86)
Type drugs (reference = Hard drugs)			
Soft drugs		-0.71 (0.45)	-0.47 (0.48)
Hard drugs + soft drugs		-0.71 (0.62)	-0.41 (0.68)
No drugs		-1.86** (0.70)	-1.37 (0.76)
Property (reference = Homes)			
Coffeeshops		-0.22 (0.84)	0.39 (0.94)
Businesses		0.09 (0.78)	0.05 (0.87)
Other		0.08 (0.88)	-0.04 (0.98)
Proportionality defenses (reference = no proportionality defense)			
Children			1.34 (0.88)
Financial problems			2.13 *** (0.64)
Health problems			2.13 (1.26)
Homeless			2.25 (1.35)
Duration close down			0.83 (0.70)
General proportionality-defense			1.07* (0.53)
Combinations			2.21*** (0.57)
Intercept	0.23 (0.23)	0.87* (0.41)	-0.76 (0.62)
Model chi-square (DF)	10.37 (1)	14.38	38.16 (14)
Significance (*p*=)	0.0013	0.044	0.0005
N	213	186	186

Note: Estimated coefficients in log odds. Standard errors in parentheses. ***p<0.001;**p<0.01; *p<0.05.

CONCLUSION

Strength of parties
H1. Upperdogs are more likely to win in court than underdogs
H2. The strength of an upperdog does not influence the win rates (experience nor size)
H3. The odds that the upperdog wins is 2.68 times higher if the upperdog faces a strong underdog in court instead of facing a weak underdog

Beyond strength of parties
- After adjusting for the type of drugs and property, the probability that the upperdog will win the case is not significantly different
- The chance for the upperdog to win the case increases when a party invokes a proportionality defense. Especially when financial problems, a general proportionality-defense or a combination of different arguments are put forward

Other case characteristics are most important!