Presidential Centralization and Judicial Nominations

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Abstract

Judicial nominations offer presidents one of their most enduring sources of influence. We argue that presidents have increasingly prioritized judicial nominations and centralized the selection process within the White House, providing greater opportunity to infuse the nomination process with presidential politics. Studying all vacancies in federal district courts from 1961 to 2018, we show that presidents announce nominations to vacant judgeships at systematically faster rates in districts that provided greater electoral support. Consistent with our argument, this pattern emerged most clearly in the last four decades and has strengthened over time. Additional evidence illustrates how presidential nomination strategies have distributional consequences for the courts' institutional capacity. Our results suggest mechanisms through which judicial nominations are responsive to presidents' political interests.

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Judicial nominations offer presidents one of their most enduring sources of influence. Recent presidents have been increasingly attentive to nominations to the federal bench as the judiciary's importance has grown for resolving political disputes, affirming or overturning policy initiatives, and satisfying partisan objectives. For instance, President Trump made filling the federal bench with conservative judges a centerpiece of his administration[1] and frequently emphasized his success in confirming his nominees.[2] Some commentators suggested that large number of Trump nominees currently serving in the federal judiciary resulted in the "Trumpification of the federal courts."[3]

As presidents have directed more attention toward filling the bench, they have increasingly centralized the nomination process within the White House. In this paper, we investigate how centralization has strengthened the relationship between presidents' political incentives and judicial nomination strategies. Previous scholarship on in the context of bureaucratic politics emphasizes how centralization enables presidents to achieve more control over personnel and bureaucratic outputs (Hollibaugh 2015; Kinane 2020; Lewis 2008; Moe 1985). We argue that centralized judicial nomination processes likewise facilitates presidential influence over the composition of the judiciary and that presidents respond to their political incentives to maximize that influence. Though a large literature studies the Senate's evaluation of judicial nominees and the constraints imposed via advice and consent on a president's choice of nominee (e.g., Binder and Maltzman 2002; Cameron, Kastellec, and Park 2013; Martinek, Kemper, and Winkle 2002; Shipan and Shannon 2003), centralization of the nomination process requires greater attentiveness to the internal politics that shape presidential decision making.[4]

Studying all nominations to federal district courts from 1961 to 2018, we show that presidents

[1] See https://www.usatoday.com/story/news/politics/2019/03/12/president-donald-trumps-conservative-judges-makeover-takeover/3140131002/.

[2] See https://www.nytimes.com/2019/11/06/us/trump-senate-republicans-courts.html.

[3] See https://thehill.com/opinion/judiciary/476796-the-trumpification-of-the-federal-courts.

[4] Research on presidential nominating strategies often focuses instead on the ideological profiles of presidential nominees (Moraski and Shipan 1999) and the descriptive characteristics of judicial nominees (Asmussen 2011; Killian 2008).

make nominations at systematically faster rates to judicial positions in federal districts that are more politically aligned with the president. Consistent with our argument about the role of centralization, this pattern emerged most clearly in the last four decades and has strengthened over the years since. These results are robust to a wide range of model specifications, characterizations of key variables, and subsets of observations. Finally, we evaluate the implications of our findings for the performance of the federal courts and find that presidential delay may contribute to disproportionate judicial burden in politically hostile jurisdictions. Our results reveal how the centralization of presidential decision making affects nominations to the federal courts and illustrate a mechanism through which the president can affect the institutional capacity of adjoining branches of government. Our findings also contribute to a growing literature on presidential particularism (Kriner and Reeves 2015; Lowande, Jenkins, and Clarke 2018) by demonstrating how political geography is associated with presidential decision making in the context of judicial appointments

Centralization and the Politics of Judicial Nominations

Judicial nominations are, arguably, as politically salient as they ever have been. While bitter partisan fights over Supreme Court nominations are not new, both political parties have recently taken greater interest in the composition of the lower courts and made judicial nominations a central component of their agendas. Contemporary judicial nominations thus are contested on the same partisan and ideological grounds as debates over major policy issues (Cameron, Kastellec, and Park 2013).

These developments are particularly important for presidents, to whom Article II vests power to nominate individuals to lifetime appointments in the federal judiciary. In an era when divided government is common and signature legislative achievements are elusive, judicial nominations

offer presidents an attractive opportunity to exercise influence on policy outcomes.[5] In turn, presidents have incentives to increase their institutional control over the nomination process to more effectively wield the power it confers.

For much of U.S. history, presidents delegated lower court nominations to home-state senators. But in recent decades, norms that once encouraged presidential deference to senatorsâĂŹ selections, such as senatorial courtesy and blue slips, have either weakened or been curtailed by presidents' partisan allies when they control the Senate.[6] While the importance of senatorial courtesy may have been overstated historically (Binder and Maltzman 2004), the Senate's active role in influencing the choice of judicial nominees has clearly diminished over time.

Presidential administrations have been the primary benefactor, and have subsequently taken steps to exercise greater power over nominee selection (Nemacheck 2008). Scholarship on the administrative presidency posits that presidents have incentives to structure the bureaucracy so that they can control its outputs (Moe 1985). We apply this logic to developments in judicial selection procedures. As the political stakes of nominations increases, presidents have incentives to exert greater control over the selection process. According to Lunch (1987, 160), presidents have "centralize[d] control over the selection of judges" because of the growing salience of judicial ideology and its importance for judicial outputs. Tighter ideological and electoral links between presidents and their legislative co-partisans suggest, moreover, that same-party senators would be more willing to defer to presidents' choices.

[5]For instance, aides to President Trump said that "remaking the federal judiciary overall has been a priority of [Trump's] and of Vice President-elect Mike Pence." See "Trump to inherit more than 100 court vacancies, plans to reshape judiciary," Phillip Rucker and Robert Barnes, December 25, 2016, *Washington Post* (available at https://wapo.st/2OzVcUq; accessed March 19, 2019).

[6]See, e.g., https://www.brookings.edu/blog/fixgov/2017/05/25/blue-slips-and-judicial-nominees-in-senate/; https://www.nbcnews.com/politics/congress/dubious-century-old-u-s-senate-blue-slip-custom-may-n810571.

The Development of White House Control over Nominations

A tendency toward centralization of judicial nominations within the White House has been well-documented since the mid-20th century. As an initial step toward centralizing the selection process, presidents empowered officials in the Justice Department to research potential nominees. These officials took the lead in "collecting names and information about 'good prospects"' (Chase 1972, 35). During the Eisenhower and Kennedy administrations, the Deputy Attorney General had "the leading role in exercising the President's [nomination] power" and "took the initiative in seeking out and proposing candidates" (Chase 1966, 196-197). In the Kennedy administration, the President himself spoke with Justice officials regarding judicial nominations, as "[n]o member of the White House staff participated actively in the process of judicial selection" (Chase 1966, 197). The trend toward greater centralization continued during the Reagan administration, where the White House conducted its own investigations of potential nominees separately from the Department of Justice. By the George H.W. Bush administration, the White House "became primarily responsible for evaluating prospective judicial nominees' ideological credentials" (Gerhardt 2003, 121). According to Borrelli, Hult, and Kassop (2001, 566), "White House involvement in lower court nominations . . . had become routine by the time Bill Clinton took office."

Recent presidents have attempted to exercise even greater control by moving responsibilities for judicial selection from the Justice Department to the White House counsel's office. The White House counsel "is at the hub of virtually all presidential activity" and "[vets] all presidential appointments" (Borrelli, Hult, and Kassop 2001, 561). During the George W. Bush administration, the White House counsel's office "played the primary liaison role" (Rutkus 2016, 13) in selecting nominees. The White House counsel continued to play a leading role in nominations during the Obama administration; in fact, the sluggish pace of nominations during Obama's first term was attributed to dysfunction within the office (Kuttner 2012). The breakneck pace of judicial confirmations during the Trump presidency reflected the work of White House counsel Donald McGahn, who had been "a main driver of the Trump selection process" (Ruiz et al. 2020).

These institutional changes have considerably altered the strategic landscape of judicial nominations. Yet, despite growing importance of judicial nominations to presidents' political agendas, we know relatively little about how presidents make nominations amid this changing institutional context. A few empirical studies examine when presidents nominate judges with particular descriptive characteristics to the bench (e.g., Killian 2008) and "go public" in support of their nominees (Cameron and Park 2011), while studies on the timing of presidential nominations emphasize the quality of the pool of potential nominees (Hollibaugh 2015) or the relationship between the president and the Senate and/or key senators (Massie, Hansford, and Songer 2004; Shipan, Allen, and Bargen 2014). King and Ostrander (2020) examine how recent presidents prioritize among inherited vacancies (though not vacancies that open during a given president's term) since 1981, but focus on Senate characteristics and judicial context as predictors of presidential strategies. We still lack a clear understanding of how the political nature of centralization structures nomination decisions. We address this lacuna by studying the political factors that explain why presidents fill some vacancies more quickly than others and identifying the consequences of these nomination strategies.

Centralization and Nomination Strategy

The centralization of the judicial selection process, we argue, allows presidential politics to play a greater role in judicial nominations. We develop our argument in the context of the federal trial courts. While presidents have an interest in filling the bench with ideological allies, doing so is a weighty administrative task bearing substantial opportunity costs. Incoming presidents inherit dozens of vacancies in the federal judiciary, and dozens more arise each year. Administrations are not equally likely to have a nominee at the ready for every vacancy. So far as presidents want to maximize their political impact on the courts by filling as many seats as possible, they will look to minimize the time, effort, and resources it takes to do so. Treating presidents as strategic optimizers, we expect that presidents will select nominees more quickly for seats that

are less costly to fill.

This strategic calculus creates an opening for political factors to influence nomination strategy by conditioning the costs associated with particular nominations. We hypothesize that presidents will more quickly nominate individuals to judicial vacancies in politically-aligned jurisdictions. For presidents interested in filling as many seats as possible, the political context of vacant judicial seats serves as an indicator of how easily they may do so. In particular, nominations to politically-aligned districts may be less costly to the White House for two reasons. First, political alignment serves as a heuristic for anticipated Senate resistance to presidents' nominees. For example, a conservative president may expect less scrutiny of their nominations to a conservative district than to a comparatively liberal one, and thus need to invest less time and energy into searching for viable candidates. Such political deference should be most salient when the Senate is controlled by the rival party and is most likely to challenge president's nominations.[7] Second, presidential administrations are likely to have stronger connections with local allies, including local party organizations and local organized interests (Hollis-Brusky 2015; Scherer 2005; Steigerwalt 2010), in regions where they enjoy greater political support. Local allies can supply the White House with names of qualified, ideologically sympathetic, and politically viable nominees for judgeships in their districts, functioning as an information subsidy by reducing the uncertainty associated with individual nominees.[8] Just as U.S. Attorneys "feel they owe their position to local political personalities" (Eisenstein 1978, x), district-related characteristics could play a role in the nomination of federal judges.

For presidents eager to make their marks on the federal judiciary by filling as many vacancies as possible, prioritizing politically supportive districts offers an efficient nomination strategy.

[7]We empirically investigate this claim later in the paper. While not dispositive, our results are consistent with the suggestion that presidents anticipate less resistance for their nominations to politically friendly seats. Because most lower court nominees are confirmed (Binder and Maltzman 2004, 190), however, it is unlikely that the speed with which presidents nominate candidates is directly related to their likelihood of confirmation.

[8]This claim borrows from Hall and Deardorff (2006), who theorizes that lobbyists provide information subsidies to legislators.

President's strategic interests set them apart from home-state senators, who are likely to be more concerned with the patronage implications of judgeships or appeasing local political allies than the state of the federal judiciary as a whole. For this reason, we further expect that the relationship between the timing of nominations and district political alignment to strengthen over time. As judicial selection is centralized within the White House, the president has fewer competing voices seeking to influence the selection process, namely locally interested home-state senators. Thus as the influence of local interests wanes and presidents are able to take a more top-down approach to nominations, the high-level strategic advantages conferred by local alignment are likely to be more salient. We hypothesize that the increasingly centralized nature of judicial nominations results in a stronger relationship between local political alignment and the president's nomination priorities given this strategic value.

Our argument makes several new contributions to existing perspectives on presidential nominations. First, we contribute to a growing literature on presidents' role in shaping the composition and activities of the judicial system. Scholarship in this area addresses the responsiveness of federal prosecutions to presidential priorities and partisanship (Boldt and Boyd 2018; Whitford and Yates 2003) and judicial responsiveness to presidential preferences (Black and Owens 2016). We extend the insights from this research to show how presidential politics affects how and when presidents choose to make nominations to lower courts. Second, we extend the insights from recent research that emphasizes the president's role as party leader (e.g., Galvin 2009) and disproportionate responsiveness to partisan incentives (Kriner and Reeves 2015). While previous scholarship has studied these relationships in the context of the president's interactions with Congress and bureaucracy, to our knowledge presidential prioritization of politically-friendly constituencies has not been studied in the context of the judiciary.

Third, our argument contrasts somewhat with theoretical perspectives that posit that presidents make nominations to reshape the ideological composition of the judiciary (Moraski and Shipan 1999). While we do not deny that presidents are inclined to nominate like-minded judges

and justices, our argument predicts that presidents will prioritize nominations to politically *aligned* districts rather than those aligned against them, where their ideological or political impact arguably could be greater. Fourth, our argument implies that presidential nomination strategies have distributional consequences with respect to judicial capacity. As Chase (1972, 14) argued, "Our courts are generally and normally overburdened and run well behind in their work." To the extent that greater of number vacancies weaken the institutional capacity of the judiciary, our argument suggests that judicial capacity is disproportionately weakened in jurisdictions less politically aligned with the president, a point we evaluate in more detail later. This implication highlights a potential unintended consequence of the politics of modern judicial nominations.

Finally, our focus on the processes used to select judicial nominees contrasts with most other research in this area that studies the Senate's response to presidential nominations. This literature generally studies the predictors of Senate delay in considering nominees and examines political conflict between the president and, variously, the median member of the Senate chamber, (e.g., Binder and Maltzman 2002; Shipan and Shannon 2003), the Senate Judiciary Committee (Binder and Maltzman 2004; Martinek, Kemper, and Winkle 2002), and, in the context of lower court nominations, home-state senators (e.g., Binder and Maltzman 2004). Other research studies how Senate delay responds to the mobilization of interest groups (Scherer, Bartels, and Steigerwalt 2008; Steigerwalt 2010) and varies across the years of presidential terms (Binder and Maltzman 2002; Martinek, Kemper, and Winkle 2002) and nominees' demographic and professional characteristics (Binder and Maltzman 2002; Martinek, Kemper, and Winkle 2002; Shipan and Shannon 2003). While this literature has provided insight about how the Senate evaluates presidential nominees, our argument emphasizes the politics of presidents' control over the selection of nominees.

Data and Empirical Strategy

We test our argument using data characterizing all federal district court vacancies and subsequent nominations made between 1961 and 2018.[9] Using data from the Federal Judiciary Center on nominations for Article III judgeships, we calculate the days that elapsed between the beginning of a vacancy, which commences when a sitting judge takes senior status, retires, dies, or is removed, and when a president makes their first nomination for that post. Overall, 2,063 vacancies opened during the time period under study.[10]

The left plot in Figure 1 displays the average number of days that elapsed before the president made their first nomination for a vacancy (*Nomination*) and until the Senate voted on the president's nominees once they were taken up (*Confirmation*) in each congress. Though confirmation delay has attracted greater scholarly attention, presidents' nomination decisions have traditionally accounted for a considerably larger share of vacancy time. Despite steady increases in confirmation time over the course of our sample, presidential contributions to vacancy length still remain on par with Senate delay. Presidents have also taken somewhat longer to make nominations during this time period. Prior to the Reagan administration, presidents took an average of seven and half months after a seat became vacant to make a nomination. Since then, the average exceeds nine months.

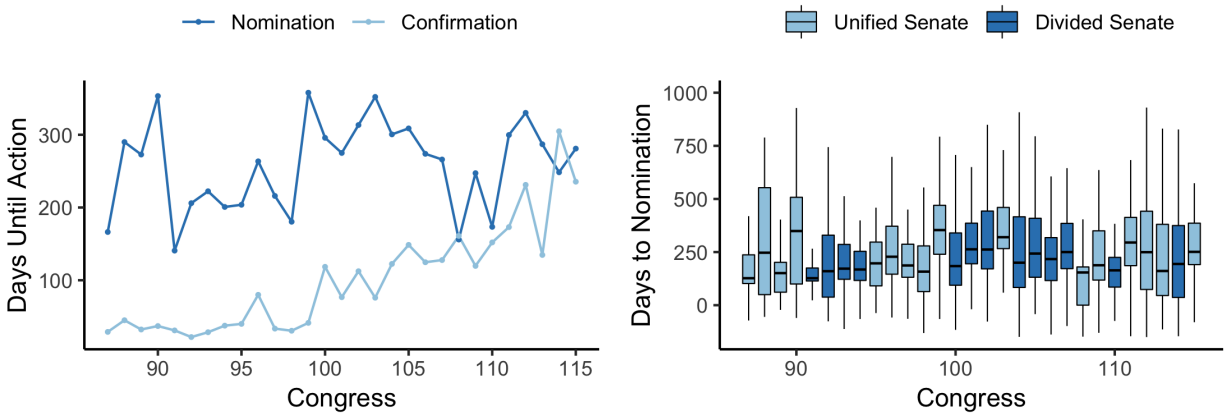
The right plot in Figure 1 shows how presidential nomination delay varies with whether the president's party controls the Senate. Here, we find relatively little evidence that presidents nominate federal judges at different speeds based on party control of the Senate. The average time to nomination is 267 days for nominations made under unified party control and 257 for those made under divided control. As the bars in the boxplot show, there is considerable variation in nomina-

[9] Summary statistics are shown in Appendix A. We exclude courts from the District of Columbia and Puerto Rico due to missing data for Senators' characteristics due to their lack of representation.

[10] See Figure A.1. About one-fifth of these vacancies originated from new judgeships that were created during this time period. We treat the creation of these judgeships as vacancies beginning on the date when the statute was signed by the president. However, our results are robust to the exclusion of these newly-created positions; see Appendix B.

tion time, particularly in more recent congresses. This figure provides some initial evidence that presidents' nomination strategies may depend more on particular vacancy characteristics than the global political environment.

Figure 1: Descriptive statistics on vacancy length



Note: The plot on the left shows the average number of days before a nomination was made and then confirmed (once accepted) by the Senate for vacancies in district courts. The nomination stage generally accounts for a larger percentage of the time during which vacancies are unfilled. The plot on the right shows the average time to an initial nomination and compares these periods across congresses with divided vs. unified party control.

Following previous scholarship that models Senate response to presidential nominations (Binder and Maltzman 2002, 2004; Massie, Hansford, and Songer 2004; Shipan and Shannon 2003), we estimate the predictors of nomination delay using Cox proportional hazards models. We treat whether a nomination is made at a given time as our dependent variable. Coefficients from this model indicate whether the relevant independent variable increases or decreases the hazard rate, where positive values indicate that larger values of a covariate increase the hazard rate of a nomination, thereby decreasing nomination delay.

We record a separate observation for each congress a vacancy goes without a nomination to account for time-variant covariates. Our contain three classes of vacancies: the creation of new seats via statute; existing judges die or take senior status; or an incoming presidents inherits seats

left vacant by their predecessor.[11] For each vacancy, the first observation is the congress during which the vacancy is announced, with a separate observation for each subsequent congress until the president makes their first nomination for that seat.[12] This data structure yields 3,103 observations for 29 congresses. The count of days a vacancy remains open is recorded up through when a nomination is made or the end of a given congress, whichever comes first.[13] In some cases, more common earlier in the sample, presidents nominate a judge before a vacancy is officially announced. We code the vacancy duration for such nominations as zero. To account for correlation in errors across the various shared political units in our sample, we cluster robust standard errors at the state level.

Our primary independent variable of interest is *Presidential Alignment*, which we measure as the president's two-party vote share in the most recent election.[14] We construct this variable from county-level returns for each federal district from 1960 through 2018, and code them so that larger values indicate greater support for the sitting president. Districts are geographically bounded by state borders[15] and 26 states have only a single contiguous district court. All other states are divided into two to four districts along county lines.

Figure 2 illustrates how presidential vote share varied across federal judicial district in the

[11]When a president inherits a seat from the departing administration, we count this as a new vacancy and restart the count of days at zero, regardless whether their predecessor made a nomination. The time count for seats that remain open at the end of a president's administration are capped at the end of that congress. We do this to avoid introducing measurement error based on the actions of a presidents' predecessor.

[12]Once the president makes a nomination, we record no further observations about either that nominee (should their nomination be returned to the Senate) or subsequent nominees by that president for that seat (should they withdraw or not renominate their original candidate). So far as we are interested in the dynamics of presidential nominations and search costs, the first nomination a president makes to a given seat will be most reflective of the costs of vetting. Re-nominations of a returned nominees reveal no new information about search, while subsequent nominees in the case of a failed first nomination likely reflect information gained during the initial vetting process and while the first nomination was under consideration.

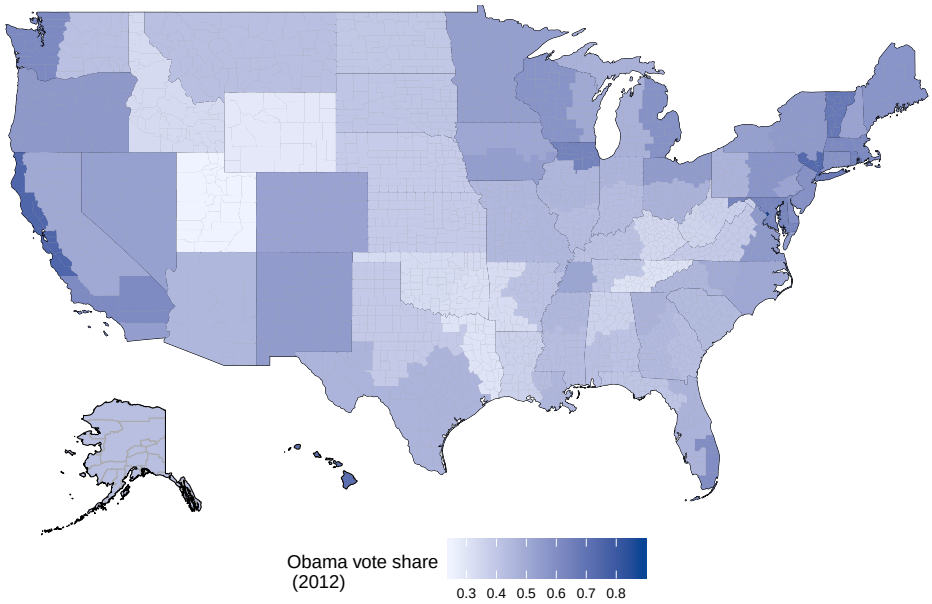
[13]For instance, a seat vacated in 2005 and filled in 2006 would register as one observation, with *Time to Nomination* as the difference between the vacancy and nomination date. A vacancy beginning in 2006 and ending in 2007 would be recorded as two observations: one for the 109th Congress and one for the 110th, with *Time to Nomination* running from the vacancy to January 3, 2007 for the 109th, and from the vacancy to the nomination for the 110th.

[14]We also estimated models using the president's share of all votes cast, which produce nearly identical results to those reported below.

[15]The District of Wyoming, which includes very small parts of Montana and Idaho in Yellowstone National Park, is the sole exception.

2012 election. Darker colors indicate districts that cast larger proportions of votes for President Obama. The figure shows that the political characteristics of federal judicial districts vary substantially, even within states. In California, for instance, Obama's vote share ranged from 75 percent in the northern district to 51 percent in the eastern district. Even in states with two districts, Obama's support varied substantially between districts, as in the eastern and western districts of Michigan (59 and 48 percent, respectively), Virginia (56 and 39 percent, respectively), and Washington (42 and 61 percent, respectively). Based on our argument, we expect to observe a positive coefficient on *Presidential Alignment*, which would indicate that vacancies are shorter in duration in districts that supported the president at higher rates.[16]

Figure 2: Presidential vote share by federal judicial district (2012)



We also estimate models that account for other factors that previous literature suggests may affect a president's nomination strategy. First, while we restart the time to nomination when a new president inherits a vacancy, we anticipate that presidents may prioritize backlogged vacan-

[16]To ensure that our findings are not the result of specifying *Presidential Alignment* as a continuous variable, we follow Kriner and Reeves (2015) in estimating models using binary variables for core and swing districts. The results of these models are presented in Appendix C. In line with our main findings and argument, we find that presidents systematically prioritize nominations in core districts, but not in swing districts.

cies differently relative to newly opened ones. Therefore, we distinguish vacancies as *Inherited* if a president inherited it from previous administrations. Similarly, we expect that presidents will pursue different strategies for filling new seats created by statute and vacancies in existing ones, perhaps due to their different implications for court capacity. While vacated seats may reduce courts' ability to deal with existing cases, newly created seats left empty only deny courts prospective increases in capacity. To capture this, we code observations as *New Seat* if the seat has been newly created by statute and has never been filled.

Second, we account for potential Senate constraints on judicial nominations. Following Binder and Maltzman's (2002; 2004) approach, we create an indicator, *Senate Courtesy*, that distinguishes whether a vacancy's state is represented by at least one senator from the president's party. We create a second variable, *Blue Slip Potential*, that indicates whether the ideological distance between a home state senator and the president is more than one standard deviation larger than the mean president-senator ideological distance in that congress, measured using DW-NOMINATE scores.[17] These variables also account for a potential confounder; namely that presidential vote share may reflect the presence of ideologically aligned or opposed senators for a given district. This allows us to distinguish the subsidy effect of local political alignment from the presence of friendly home-state representation. To account for how a president may respond to an ideologically hostile Senate more generally, we distinguish *Divided Senate* based on whether the opposition party controlled the Senate for a given congress.

Third, unlike the Supreme or Appellate Courts, district court cases are usually heard by in-

[17]This measurement strategy represents a middle ground between approaches found in previous research that measure the potential for a negative blue slip either as a continuous measure of ideological distance from the president (e.g., Black, Madonna, and Owens 2014) and by distinguishing only the most ideologically distant senators (e.g., Binder and Maltzman 2002). We note that roll-call based estimates of President Trump were not yet available as of this writing. Instead, we imputed Trump's ideology based on the mean value of the ideological estimates for the other Republican presidents who served during this time period (Nixon, Ford, Reagan, and the two Bushes). These five Republican presidents had very similar NOMINATE estimates, with a mean of 0.600 and a standard deviation of 0.087. However, we note that our results are not sensitive to this particular measurement strategy, as our results are robust to characterizing Trump's ideology as equivalent to Gerald Ford and George W. Bush, the most moderate and conservative Republican presidents, respectively, during this time period (see Appendix D) and when excluding the Trump presidency (see Appendix E).

dividual judges rather than panels. Nonetheless, presidents may focus their nomination strategy around maximizing courts' ideological alignment with their policy preferences (for an application of this theoretical perspective to the Supreme Court, see, e.g., Moraski and Shipan 1999). To address this possibility, we include a measure of *Partisan Composition*, reflecting the percentage of judges in a district nominated by a president of the current president's party.

Fourth, presidents may be sensitive to other district-specific factors when making nominations. While six federal districts contain just two seats each, America's largest district courts—the Central District of California and the Southern District of New York— each contain 28 judges. These two districts contain parts of the country's two largest cities, with millions of people and major financial institutions within their jurisdiction. The marginal effect of a single vacancy will be greater for a two- or three-judge court than a 20-judge one. We account for potential differences in presidential strategy around large and small courts with *Statutory Court Size*, which characterizes the number of judges allocated by statute to each district at the start of a given congress. This measure tracks changes in court size over time that may capture other relevant confounders at the district level, such as population density. In Arizona, for instance, judgeships increased from two to 13 over the course of our sample, while Nebraska grew by only one seat over the same period. We also control for presidents' institutional capacity to vet potential nominees with a measure of the number of *Total Vacancies* without a nominee in a given congress.

Finally, in all our models we include fixed effects for presidential term to account for nomination strategies that may vary across and within presidents' terms in office. Given this specification, our main coefficient of interest is estimated by comparing nomination delay among districts within a presidential term.[18]

[18]Though our modeling strategy follows previous research and is appropriate given the nature of the dependent variable, we acknowledge its inferential limitations. Namely, presidential vote share is not randomly assigned and we must assume that we have accounted for all potential confounders. We return to this issue in the conclusion. We also note the possibility, however, that the relationship between nomination delay and some of our covariates, including our primary variable of interest, could vary within a given presidential term. In additional analyses described below, we estimate models that explicitly allow for this variation across time.

Results

Table 1 presents the results from our regression models. Column (1) reports results from our baseline model which includes *Presidential Alignment* along with presidential term fixed effects. The coefficient estimate for *Presidential Alignment* is positive and statistically significant, providing initial support for our hypothesis. This finding is consistent across our models. In column (2), we add the indicator for inherited vacancies and the indicator for newly created judgeships. The model in column (3) includes covariates that characterize the president's political relationship with the Senate and column (4) includes covariates that account for factors relating to the district courts. In each model we find that a district's political alignment with the president is significantly related to the speed with which presidents make nominations. The results in Table 1 thus provide strong and consistent evidence for our primary hypothesis.

As an additional test, column (5) shows results when estimating the fully-specified model in column (4) while also including state fixed effects. This specification accounts for any time-invariant unobserved or omitted state-level factors that might also affect presidential nomination strategies.[19] With state fixed effects, the coefficients for *Presidential Alignment* are identified using variation in the president's electoral support among districts within the same state, and thus provides a stronger test of whether our results are driven by local characteristics of districts rather than state-level attributes. This specification provides patterns nearly identical to that in our other models.[20] Estimating this model comes at a cost, though, in that the coefficient of interest uses information only from the 24 states that have multiple court districts,[21] and is less flexible in the context of our estimation. Therefore, we use model (4) for all subsequent analysis

[19]This specification also addresses the possibility that, in a state with multiple districts, executing a search for one district would reduce future search costs for a vacancy in another district in the same state.

[20]The one exception concerns the coefficient estimate of *New seat*, which is positive and significant when state fixed effects are included.

[21]Multi-district states tend to be more populous and geographically larger than single-district states, though there are some prominent outliers. New Jersey is most populous state with a single district, while West Virginia is the least populous to have more than one.

and robustness checks.

Figure 3 shows the substantive magnitudes of the results shown above. Following Kropko and Harden (2020), we calculated the marginal effects of each covariate in model 4 from Table 1 on the expected duration of a judicial vacancy. Specifically, we estimate the difference in expected duration as the values of each variable change from one standard deviation below the mean value to one standard deviation above the mean value. (For binary variables, we estimate the marginal effects for a change from 0 to 1.) All other variables are held at their mean values.

The expected duration estimates show that the results are substantively meaningful. As a district's electoral support for the president increases by two standard deviations (from about 45 percent to 64 percent), we estimate that the president makes a nomination 49 days sooner. This is roughly equivalent to the estimated reduction in nomination time (45 days) associated with a state having at least one senator from the president's party opposed to none, and considerably larger in magnitude relative to the marginal effect of divided government (an increase of 27 days). We also find that presidents announce nominees to inherited vacancies 88 days more slowly than they do to other seats, and 97 days more slowly to newly-created seats. A two standard deviation increase in the share of existing judges that share the president's partisanship is associated with a reduction of about three weeks (23 days) in presidential delay. Finally, a two standard deviation increase in the size of a district's bench (from two seats to 16 seats) increases the expected time-to-nomination by about 63 days.

The results in Table 1 and Figure 3 are robust across a variety of additional analyses. First, to evaluate whether our models comply with assumptions of the Cox proportional hazard model, we test and correct for nonproportionality among our covariates. While *Presidential Alignment* and other covariates show evidence of non-proportionality, subsequent corrections do not substantially alter the direction or significance of our results. Second, our results are not driven by particular presidents, districts, time periods, or observations. We estimated model (4) from Ta-

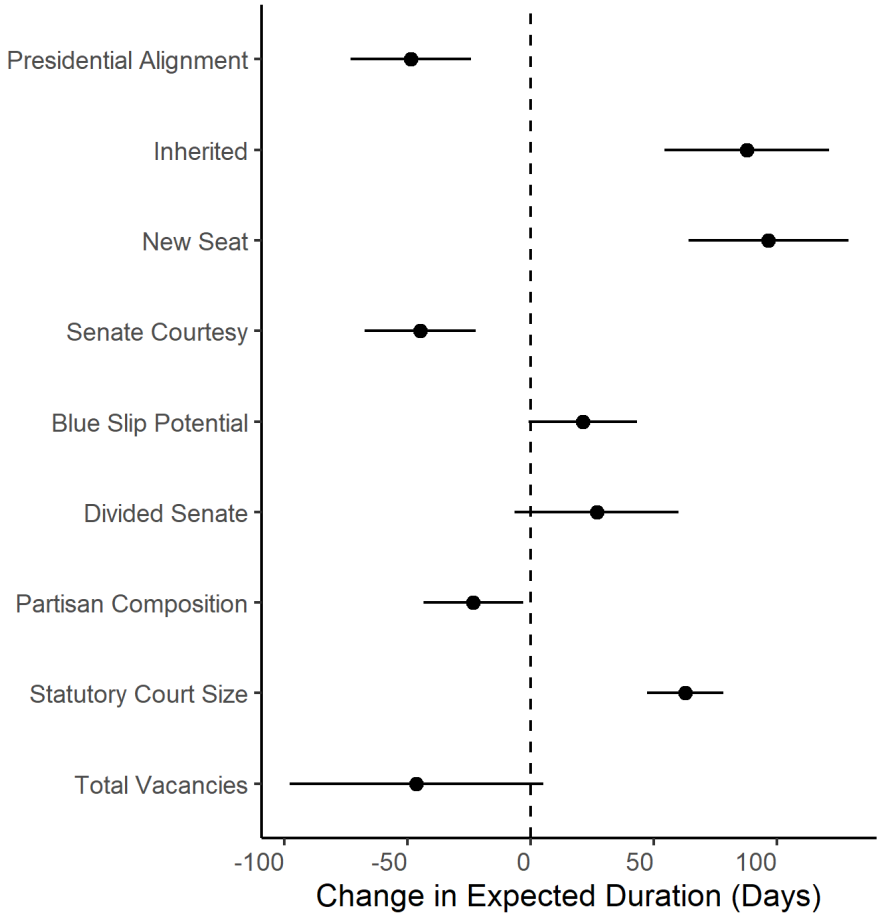
Table 1: Effects of Presidential Alignment on Vacancy Duration

	(1)	(2)	(3)	(4)	(5)
Presidential Alignment	2.094**	2.097**	1.591**	1.460**	1.194**
	(0.326)	(0.333)	(0.423)	(0.421)	(0.472)
Inherited		−0.404**	−0.432**	−0.462**	−0.479**
		(0.065)	(0.067)	(0.067)	(0.062)
New Seat		−0.454**	−0.470**	−0.534**	−0.601**
		(0.118)	(0.123)	(0.115)	(0.103)
Senate Courtesy			0.214*	0.240*	0.286**
			(0.101)	(0.096)	(0.108)
Blue Slip Potential			−0.127	−0.116	−0.236*
			(0.087)	(0.077)	(0.103)
Divided Senate			−0.175**	−0.149*	−0.211**
			(0.059)	(0.068)	(0.068)
Partisan Composition				0.253	0.256
				(0.133)	(0.134)
Statutory Court Size				−0.024**	−0.015*
				(0.004)	(0.007)
Total Vacancies				0.003**	0.002
				(0.001)	(0.002)
Term fixed effects	✓	✓	✓	✓	✓
State fixed effects					✓
Observations	3,103	3,103	3,103	3,103	3,103
Log Likelihood	−14,614.660	−14,572.920	−14,555.770	−14,518.950	−14,412.160

Note: Coefficients are estimated from Cox proportional hazards model with robust standard errors in parentheses clustered on state. President-term fixed effects are included but not reported.

* indicates $p < .05$, ** $p < .01$ (two-tailed tests).

Figure 3: Marginal Effects of Covariates on Time to Nomination



Note: The figure shows the change in nomination time with a two standard deviation increase in values of the independent variables (for binary variables, changes are calculated with an increase from zero to 1). Horizontal lines are the 95% confidence intervals.

ble 1 while sequentially omitting each congress, presidential term, president, district, and circuit. Across these 158 additional regressions, the coefficient estimate for *Presidential Alignment* is positive, stable in magnitude, and statistically distinguishable from zero in each. These additional analyses indicate that the findings in Table 1 are not driven by any particular president or subset of observations.[22]

Institutional Change and Centralization

We now test our second hypothesis regarding the increasing centralization of judicial selection within the White House. If the connection between presidential politics and nomination time we observe are attributable to the increasing centralization of judicial selection, we expect that the estimated effects increase over time. We conduct two sets of analyses to investigate this expectation. In the first, we distinguish nominations that occurred between 1961 and 1980 from those occurring between 1981 and 2018. Researchers have frequently pointed to the 1980s as a turning point for polarization in American politics and as a transformative moment for the politics of judicial nominations in particular. For instance, Goldman (1997) argues ideological considerations began to factor more explicitly into the nomination process under Reagan, while recent work points to the emergence of incentives for increasingly partisan behavior in the Senate during this period (Lee 2016). Splitting the sample in this way, we expect that the relationship between *Presidential Alignment* and nominations will be stronger in the post-1980 period. In the second analysis, we estimate our fully specified model from Table 1 while including a linear time trend and its interaction with *Presidential Alignment*. While this specification may offer only a rough approximation of the degree to which centralization has increased over the last sixty years, we expect that the interaction term will be positive, indicating that the importance of *Presidential Alignment* has generally increased over time.

Table 2 shows the results. Consistent with our hypothesis, both sets of results indicate that

[22]Results described in this paragraph are in Appendixes E and F.

presidential politics has been an increasingly important predictor of nomination strategies over time. As the first column shows, prior to Reagan's election, presidential alignment is correlated with shorter nomination times, but is not significant. Instead, these findings the results in Table 1 are largely driven by a stronger relationship between presidential electoral performance and nominations strategies in the decades that followed. While we are reluctant to claim that our findings reflect a singular turning point around 1980, these results are consistent with other literature that describes the increasing political contestation over judicial nominees that began around that time. The third column shows that the coefficient on *Presidential Alignment* is negative and insignificant, indicating an absence of an association between *Presidential Alignment* and nomination speed in the first year of our data. However, the coefficient on the interaction term is positive and significant, indicating that *Presidential Alignment* has been increasingly important as a predictor of shorter nomination times in the years since. The findings from both modeling strategies are consistent with the claim that presidents have increasingly designed their nomination strategies in ways that reflect their geographic distributions of political support.

In additional analyses, we examined how more recent brinksmanship over Senate norms influenced the effect of alignment considerations on nominations. In November 2013, the Senate invoked the so-called nuclear option, which eliminated the filibuster for judicial nominations to federal courts other than the Supreme Court. We distinguished vacancies that opened before and after this rule change. While some models provide evidence that the nuclear option further strengthened the association between the president's electoral support and the speed with which he made nominations to vacancies in those districts, the results of these analyses are sensitive across specifications and samples. Further research with the benefit of a longer post-nuclear option period is necessary to more conclusively study this question.[23]

[23]Results described in this paragraph are in Appendix H.

Table 2: Historical Change in Effect of Presidential Alignment on Vacancy Duration

	1961-1980	1981-2018	Time Trend
Presidential Alignment	0.223	2.029**	−0.635
	(0.559)	(0.427)	(0.811)
Time Trend			−0.033
			(0.064)
Presidential Alignment x Time Trend			0.128**
			(0.047)
Inherited	−0.033	−0.541**	−0.440**
	(0.124)	(0.079)	(0.066)
New Seat	−0.547**	−0.427**	−0.548**
	(0.170)	(0.089)	(0.117)
Senate Courtesy	0.117	0.248*	0.197
	(0.164)	(0.111)	(0.102)
Blue Slip Potential	0.006	−0.167	−0.091
	(0.138)	(0.101)	(0.073)
Divided Senate	0.434	−0.232**	−0.160*
	(0.259)	(0.069)	(0.078)
Partisan Composition	0.501**	−0.006	0.225
	(0.179)	(0.152)	(0.136)
Statutory Court Size	−0.031**	−0.021**	−0.025**
	(0.007)	(0.005)	(0.004)
Total Vacancies	0.014**	−0.004*	0.004**
	(0.002)	(0.002)	(0.001)
Term fixed effects	✓	✓	✓
Observations	936	2,167	3,103
Log Likelihood	−3,838.476	−9,350.469	−14,510.080

Note: Coefficients are estimated from Cox proportional hazards model with robust standard errors in parentheses clustered on state. President-term fixed effects are included but not reported.

* indicates $p < .05$, ** $p < .01$ (two-tailed tests).

Anticipated Senate Deference as a Mechanism

As suggested earlier, a possible mechanism for the patterns we observe is that presidents use districts' political alignment to anticipate the potential for Senate resistance. We provide an indirect assessment of this hypothesis and evaluate whether presidents' nomination behavior is responsive to *anticipated* deference by looking at nomination strategies in periods of interbranch conflict. As Table 1 showed, the presence of a hostile majority in the Senate generally slows presidential nominations. Thus during divided Senate control, presidents can anticipate greater scrutiny from a hostile Judiciary Committee, especially for districts represented by members of the Senate majority party or ideologically aligned with them. Therefore, if presidents are strategically responsive to anticipated deference, then we should expect the advantages of political deference to be greatest when Senate resistance is most likely. We expect that rational presidents should prioritize nominations in friendly districts to a greater degree when faced with an unfriendly Senate.[24]

To test whether presidents make nominations to aligned districts more quickly during periods of Senate hostility, we include an interaction between divided government and presidential vote share. The results, presented in Appendix G, show that presidents heavily prioritize filling politically-aligned vacancies when faced with a hostile Senate. The coefficients for the interaction term are positive and statistically significant in each model. In the more fully specified models, moreover, we find that only the interaction terms are significant while the constituent terms for *Presidential Alignment* are positive but imprecisely estimated. While these results are not dispositive evidence of a mechanism, they are consistent with our suggestion that the observed effect of *Presidential Alignment* on nomination time is connected by presidents' strategic interactions with the Senate.

[24]An alternative empirical strategy would examine whether the Senate is more deferential to nominees in presidentially-aligned districts. However, strategic presidents would have anticipated this deference and made nominations accordingly, significantly complicating empirical efforts to evaluate the extent of this deference.

The Consequences of Nomination Delay

What do our findings about the increasing relevance of presidential politics to nomination strategy mean for the composition and functioning of the federal district courts? Here, we focus on the direct consequences of nomination delay for the institutional capacity of the lower courts. Not only does presidential and Senatorial behavior shape the political and ideological leanings of courts by selecting who sits on them, but they also help determine whether there are judges sitting at all.[25] While judges who take senior status continue to hear cases, they do so at significantly diminished rates relative to their active peers. The number of active judges, therefore, has implications for the capacity of the courts to hear the cases before them. According the American Bar Association, "Persistent vacancies in a busy court increase the length of time that litigants and businesses wait for their day in court, create pressures to 'robotize' justice, and increase case backlogs that perpetuate delays in the future."[26] This raises the possibility that presidential prioritization of politically-aligned districts has distributive consequences for the institutional capacity of the courts that serve those districts.

We study the capacity of the federal courts with original data drawn from federal caseload reports for the 89 state district courts from 2001 to 2018.[27] These reports, published quarterly by the Administrative Office of the U.S. Courts, document court performance over the previous year. They also record the number of months any seat remained vacant within that period for each court. A seat that went unfilled for an entire year is coded as 12, as would two separate six-month vacancies. Using a fixed effects panel design, we estimate the effect of the number

[25]The analyses above distinguished the contributors to nomination delay, and the descriptive patterns in Figure 1 indicated that nomination delay was a significant contributor to total vacancy length. Here, our analyses focus on the consequences of the length of time a seat remains vacant, recognizing that the president and the Senate both contribute to this quantity.

[26]See "Judicial Vacancies," November 18, 2018, American Bar Association (available at https://bit.ly/2ykoXOf; accessed March 27, 2019).

[27]These years are selected based on the Administrative Office of the U.S. Courts' practice of reporting findings annually for six year intervals. We use the most recently available reports, September 2018, and aggregate data from September-to-September years. The year 2001 is dropped from our models due to calculating lagged variables within our panel.

of vacancy months in a given year on two measures of court performance: the number of trials completed in a year and the percentage of ongoing civil cases over three years old. We anticipate that longer vacancies mean courts complete fewer trials and have more long-open cases.

Because a court's performance is likely correlated with the number and difficulty of cases it receives in a given year, we control for each courts' pending cases at the end of the previous year and the number of filings it received in the current year, weighted by time-intensiveness.[28] We include district fixed effects to capture all other unobserved confounding for individual districts, such as size or location. Year fixed effects are included to account for nationwide trends over time; therefore, our coefficients of interest are identified using within-district change in vacancy months across years. Standard errors are clustered on districts.

The results in Table 3 show that longer vacancies have negative consequences for court performance. More vacancy months decrease the number of trials courts completed in a given year and increase the percentage of long-lasting cases. The estimates suggest that districts with vacancies that last for a full year complete four fewer trials than they would have otherwise, which corresponds to a reduction of approximately three percentage points relative to a district average of 139. Similarly, our model predicts that districts with an empty seat for a full year will experience a one percentage point increase in the percent of open cases lasting for three years or more. Though relatively small, the magnitude of this finding is not trivial as it represents an increase of roughly 13 percent over the average share of long-lasting cases. With many courts balancing several thousand cases at a time, this suggests that hundreds cases of cases may be stretched out each year due to nomination delay. While we do not wish to overstate the results given the relatively small magnitudes of the estimated effects, we also note that these findings do not take into account *how* courts decide on cases. Both small changes in the number of completed trials and length of ongoing cases may reflect how judges prioritize shorter cases or "robotize" their

[28]Used by the Judicial Resources Committee since 2004, an average case is given a weighting of 1, while low-effort cases (such as student loan defaults) are scaled to lower values. More time intensive cases are weighted to just under 13. Thus, weighted filings provide a more accurate estimation of caseload than the raw total of filings.

decisions when operating below full capacity.

Table 3: Vacancies and Judicial Performance

	Completed Trials		% Cases 3+ Years Old	
Vacancy Months	−0.331**	−0.321*	0.079	0.091*
	(0.127)	(0.133)	(0.042)	(0.041)
Weighted Filings (in Thousands)		−0.365		−1.252**
		(1.024)		(0.350)
Previous Pending Cases (in Thousands)		0.008		0.825**
		(0.684)		(0.296)
Unit fixed effects	✓	✓	✓	✓
Year fixed effects	✓	✓	✓	✓
Observations	1,513	1,513	1,513	1,513

Note: Entries are linear regression coefficients with standard errors clustered on district in parentheses.
* indicates $p < .05$; ** $p < .01$ (two-tailed tests).

These results cast the potential implications of our initial findings in a starker light. Presidents' nomination choices not only shape who eventually sits on the bench, but also how remaining judges keep up in their absence. Not only do presidents prioritize aligned districts for efficiency reasons, but they may also have strategic incentive to leave seats in politically hostile districts open to hamper those courts' ability to take up cases in an effective manner. The flip side of presidential prioritization could give rise to patterns of (potentially unintentional) politically motivated court-jamming. We leave this only as a suggestion and a gesture toward how these findings bear on the political dynamics that affect how the system of separated powers operates in practice.

Conclusion

"Our nation is disadvantaged when our federal judiciary does not have sufficient judges to hear cases and resolve disputes in a thorough and timely fashion," reports the ABA.[29] While in recent years the Senate has taken much of the blame for the slow pace of filling vacancies on the federal bench, as nomination decision-making is centralized within the White House, we show that the onus is on the presidency as well. So far as the staffing of the federal judiciary is necessary to uphold its end of the American constitutional system, presidents' choices about nominees to the bench shape not only its ideological leanings but also its institutional capacity. However, presidents face their own capacity constraints. With the potential for hundreds of vacancies at any one time, selecting viable nominees requires that the White House shift precious time and resources away from its myriad other political goals. Presidents' interest in getting the best bang for their buck creates openings for political factors to trickle into their nomination strategy.

In this paper, we provide evidence that as presidents take a stronger hand in judicial nominations, the timing of those nominations is increasingly responsive to districts' political alignment. These patterns are particularly strong since 1981, which corresponds to the period in which greater efforts have been made to centralize judicial selection within the White House. Previous theories of judicial selection may have underestimated the capacity constraints presidents face when filling the dozens of seats that open each year and the strategic differences between nominations to aligned and hostile districts. Rather than place ideologically friendly judges in politically hostile districts, we find presidents often follow the path of least resistance and prioritize districts where they enjoy the greatest support.

We note several limitations of our own research and opportunities for further study. First, while our empirical strategy follows those commonly used to study the pace at which the White House announces nominations, it limits the causal inferences we can make. While an alternative

[29] See "Judicial Vacancies," November 18, 2018, American Bar Association (available at https://bit.ly/2ykoXOf; accessed March 27, 2019).

modeling strategy (such as differences-in-differences) could generate sharper causal estimates, the nature of the dependent variable and the lack of panel data in this setting introduces different sets of limitations. Second, our argument emphasizes the importance of locally-connected interest groups, political parties, and officeholders for providing information to the White House. Collecting granular data on the activities of these individuals and organizations would be an important next step for evaluating our proposed mechanisms. Third, the evidence provided here suggests that the executive branch, and the White House in particular, is not immune to information deficiencies or the costs of acquiring information. While presidents are sometimes attributed with informational advantages, in the case of judicial nominations, presidents may rely on other actors who can subsidize information costs. Fourth, while our empirics focus on the federal district courts, our argument applies more generally to other federal courts as well as appointments within the executive branch. Extending the argument to other settings is an important opportunity for future research. Finally, we have demonstrated how one political institution—here, the presidency—can affect the performance of adjoining branches of government as it centralizes decision-making related to them. In doing so, we shed new light on previously undocumented sources of presidential influence. Identifying other means through which inter-institutional interactions shape institutional capacity is important for more fully understanding and evaluating systems of separated powers.

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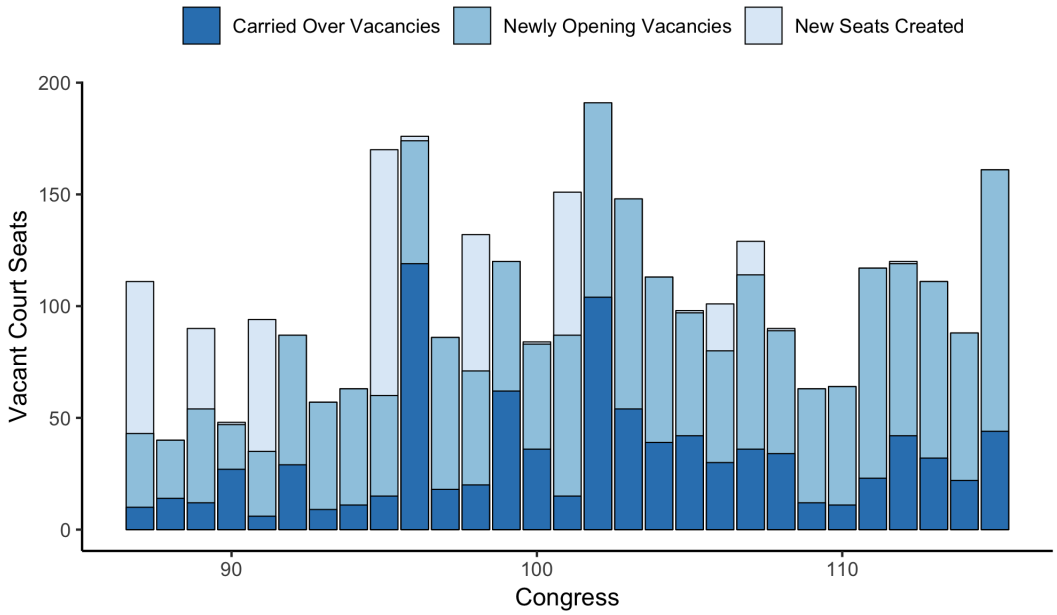
ONLINE APPENDIX

Robustness Checks and Supplementary Analyses for
Presidential Centralization and Judicial Nominations

Contents

A Summary Statistics

Figure A.1: District Court Vacancies, 1961-2018



Note: Data show the number of vacancies in federal judgeships during each Congress. While vacancies carrying over from previous congresses increase most drastically following large expansions of the courts, unfilled existing seats account for a small yet growing proportion of vacant positions encountered in a given Congress.

Table A.1: Summary Statistics of Dependent and Independent Variables, Table 1

	Mean	Stan.Dev.	Min.	Max.
Days to Nomination	258.379	238.856	0.000	1999.000
Presidential Alignment	0.538	0.091	0.000	0.809
Inherited	0.113	0.317	0.000	1.000
New Seat	0.261	0.439	0.000	1.000
Senate Courtesy	0.739	0.439	0.000	1.000
Blue Slip Potential	0.320	0.466	0.000	1.000
Divided Senate	0.425	0.494	0.000	1.000
Partisan Composition	0.479	0.256	0.000	1.000
Statutory Court Size	9.726	7.269	0.000	28.000
Total Vacancies	120.767	38.372	40.000	191.000

Table A.2: Summary Statistics of Dependent and Independent Variables, Table 3;

	Mean	Stan.Dev.	Min.	Max.
Completed Trials	139.981	101.341	6.000	836.000
Perc. Cases Over 3 Y.O.	7.352	9.700	0.000	90.300
Vacancy Months	7.681	11.178	0.000	85.400
Weighted Filings (in Thousands)	3.657	3.378	0.414	25.51
Previous Pending (in Thousands)	4.036	5.577	0.304	74.620

B Previously Held Seats

We might anticipate that presidents make nominations to seats recently created by statutes differently than vacancies in established seats. For example, vacancies of previously held seats and new ones are likely to reflect different capacity costs on the courts themselves – where a vacant established seat may have an actively downward effect on court capacity, an unfilled new seat is only the delay of a prospective increase in court capacity. To test this and the robustness of our model to the inclusion of new seats, we estimate our model excluding newly created seats.

Table B.1: Effects of Presidential Alignment on Vacancy Duration Among Previously Held Seats

	(1)
Presidential Alignment	1.624**
	(0.469)
Inherited	-0.487**
	(0.076)
Senate Courtesy	0.289**
	(0.101)
Blue Slip Potential	-0.207*
	(0.099)
Divided Senate	-0.154
	(0.079)
Partisan Composition	0.167
	(0.141)
Statutory Court Size	-0.028**
	(0.005)
Total Vacancies	-0.0005
	(0.002)
Term fixed effects	✓
Observations	2,293
Log Likelihood	-10,824.490
Note:	**p<0.1; *p<0.05

C Presidential Vote Share Specification

While we argue a continuous measure of *Presidential Alignment* is appropriate for capturing relative differences in districts' alignment with the White House, we address two concerns about the specification of *Presidential Alignment.* First, our results may be driven by differences at the very top and very bottom of the distribution of vote share that are unlikely to be substantively meaningful in terms of the local factors they reflect. Second, there remains the possibility that presidents are responsive to *electoral* conditions within judicial districts rather than the relative costs of nominations. To ensure our results are robust to alternate specifications of *Presidential Alignment* and to test the possibility of electoral mechanisms, we estimate our main models using binary variables for swing districts (in which the president received between 45% and 55% of the vote) and core districts (in which the president received over 55%). We draw these measures from , who argue core and swing specifications are more appropriate given that campaigns generally view how competitive districts are in similar terms. Our results are in line with our initial argument that presidents prioritize politically aligned districts over ones aligned against them. Presidents are 41% more likely to make a nomination in a core district at a given time than a non-core one, while we are unable to distinguish the effect of swing districts from zero.

Table C.1: Effects of District Competitiveness on Vacancy Duration

	(1)	(2)	(3)	(4)
Swing District	0.315**	0.320*	0.237	0.184
	(0.116)	(0.132)	(0.142)	(0.110)
Core District	0.523**	0.535**	0.411**	0.347**
	(0.105)	(0.113)	(0.131)	(0.101)
Inherited		-0.410**	-0.437**	-0.467**
		(0.065)	(0.066)	(0.066)
New Seat		-0.461**	-0.476**	-0.538**
		(0.118)	(0.122)	(0.115)
Senate Courtesy			0.222*	0.247**
			(0.097)	(0.091)
Blue Slip Potential			-0.129	-0.119
			(0.083)	(0.074)
Divided Senate			-0.172**	-0.147*
			(0.057)	(0.068)
Partisan Composition				0.275*
				(0.132)
Statutory Court Size				-0.023**
				(0.004)
Total Vacancies				0.004**
				(0.001)
Term fixed effects	✓	✓	✓	✓
Observations	3,103	3,103	3,103	3,103
Log Likelihood	−14,616.550	−14,573.590	−14,555.270	−14,520.020

Note: **p<0.1; *p<0.05

D Blue Slip Specification

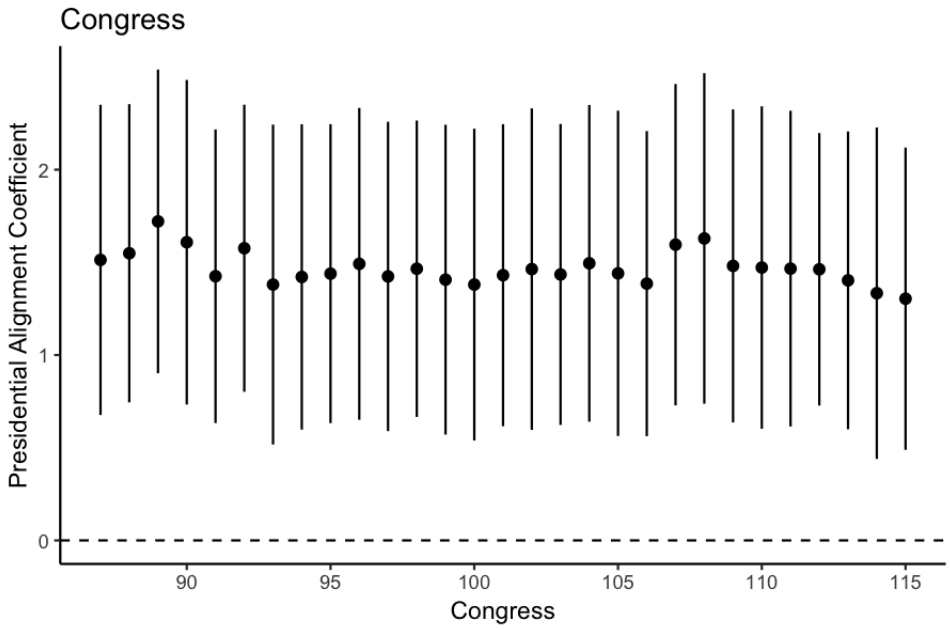
Given that NOMINATE ideology estimates for Donald Trump are not available at the time of writing, we measure blue slip potential for the Trump presidency by treating his ideology as the mean estitmate for the five other Republicans holding the presidency between 1961 and 2018. This gives us a score of 0.6 with a standard deviation of 0.087. To ensure our model is robust to different specifications of Trump's ideology, we reestimate our models with blue slip indicators holding Trump's ideology equal to Gerald Ford's (the most moderate Republican in the sample, with a score of 0.506) and to George W. Bush's (the most extreme at 0.693). Neither specification substantially alters our results and in neither case is the blue slip potential indicator significant. Similarly, our findings are robust to excluding Trump's presidency entirely (see Appendix E).

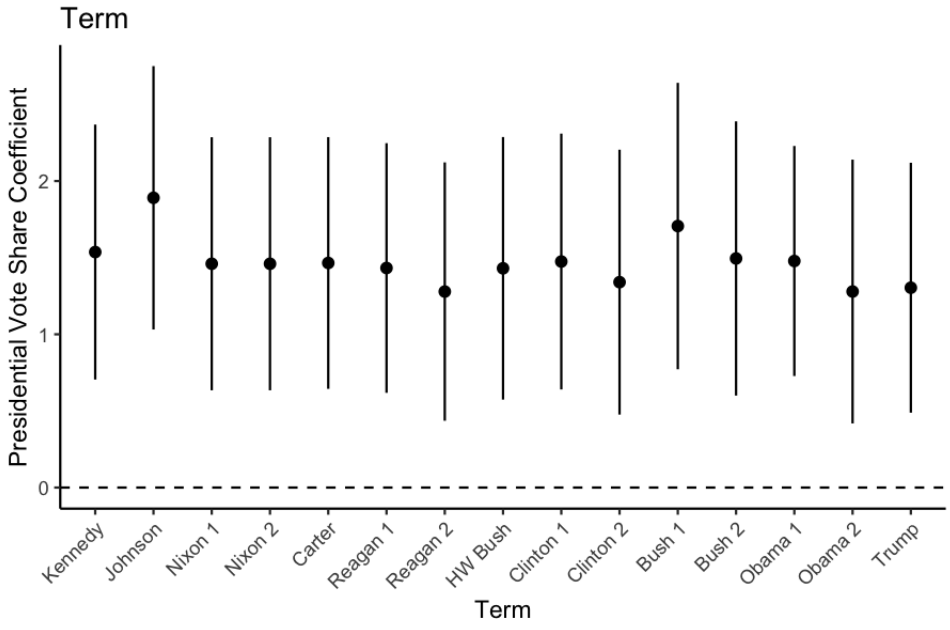
Table D.1: Effects of Presidential Alignment on Vacancy Duration Across Blue Slip Specification

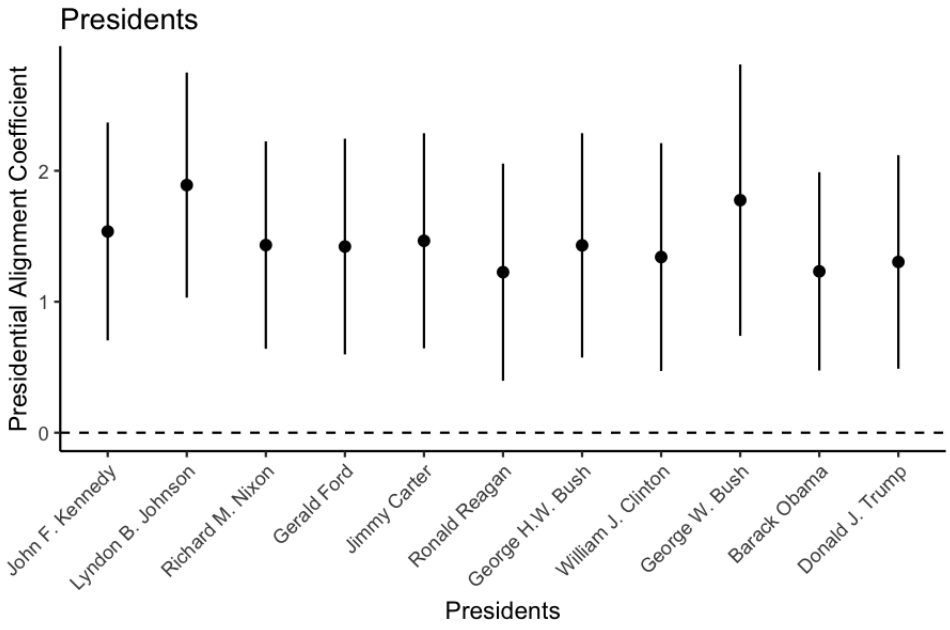
	Trump as Ford	Trump as Bush
Presidential Alignment	1.451**	1.484**
	(0.424)	(0.421)
Inherited	-0.463**	-0.463**
	(0.067)	(0.068)
New Seat	-0.534**	-0.534**
	(0.115)	(0.115)
Senate Courtesy	0.236*	0.249**
	(0.096)	(0.094)
Blue Slip Potential (Ford)	-0.127	
	(0.079)	
Blue Slip Potential (Bush)		-0.099
		(0.076)
Divided Senate	-0.150*	-0.148*
	(0.068)	(0.068)
Partisan Composition	0.254	0.255
	(0.133)	(0.134)
Statutory Court Size	-0.024**	-0.024**
	(0.005)	(0.004)
Total Vacancies	0.003**	0.003**
	(0.001)	(0.001)
Term fixed effects	✓	✓
Observations	3,103	3,103
Log Likelihood	-14,518.520	-14,519.590
Note:	**p<0.1; *p<0.05	

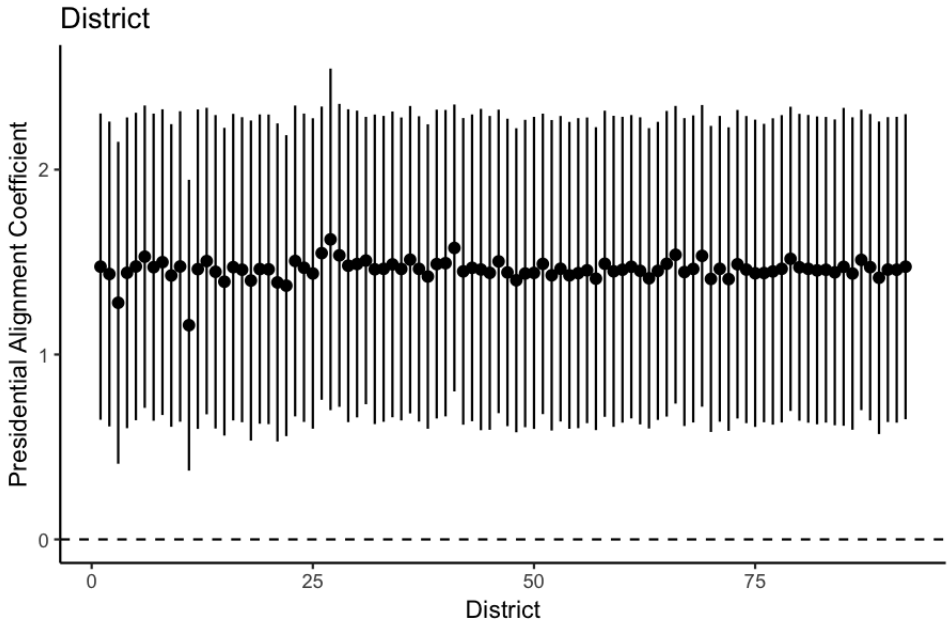
E Sequential Observation Dropping

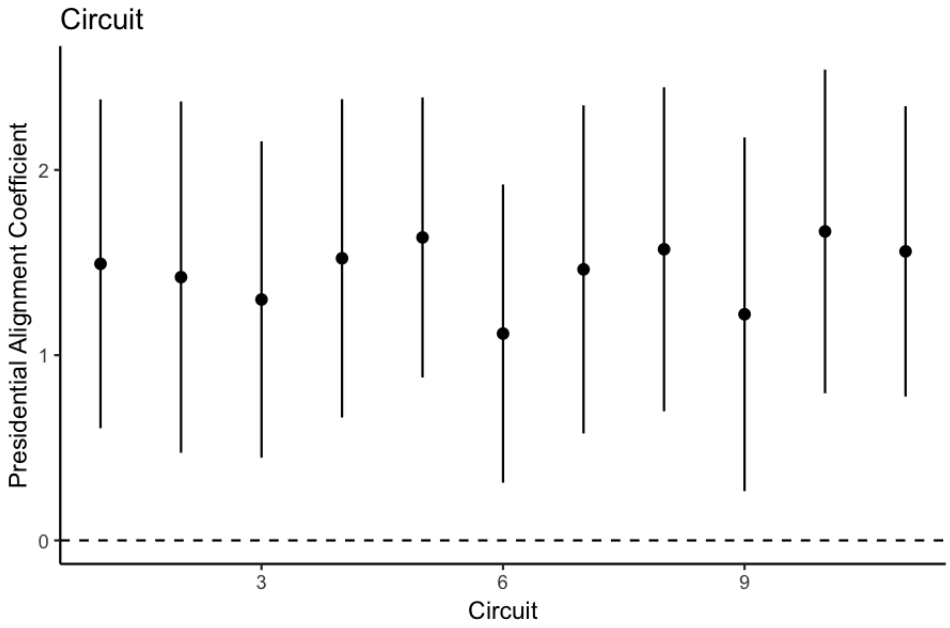
To ensure that our findings are not being driven by any outliers, we sequentially drop each congress, presidential term, president, district, and circuit from our analysis and plot the results. The figures below plot the coefficient estimate for *Presidential alignment* for each. In a handful of cases, the significance dips below the 0.05 threshold, but in each case they are directionally consistent and approach standard levels of significance.


Congress
Presidential Alignment Coefficient
2
1
0
90
95
100
105
110
115
Congress


Term
Presidential Vote Share Coefficient
2
1
0
Kennedy
Johnson
Nixon 1
Nixon 2
Carter
Reagan 1
Reagan 2
HW Bush
Clinton 1
Clinton 2
Bush 1
Bush 2
Obama 1
Obama 2
Trump
Term


Presidents
Presidential Alignment Coefficient
2
1
0
John F. Kennedy
Lyndon B. Johnson
Richard M. Nixon
Gerald Ford
Jimmy Carter
Ronald Reagan
George H.W. Bush
William J. Clinton
George W. Bush
Barack Obama
Donald J. Trump
Presidents


District
Presidential Alignment Coefficient
2
1
0
0
25
50
75
District


Circuit
Presidential Alignment Coefficient
2
1
0
3
6
9
Circuit

F Non-Proportionality Checks

The primary assumption of the Cox proportional hazards model is the proportionality of covariates. We test for non-proportionality by checking for the independence of Schoenfeld residuals for each covariate and time. These tests show several covariates in our model, including *Presidential Alignment* have significant non-proportional effects on vacancy length. To correct for this, we follow Box-Steffensmeier, Reiter, and Zorn (2003) by running a non-proportional hazards model and interacting violating covariates with log transformation of the duration of a vacancy to allow them to vary with duration length.

The results of the non-proportional hazards model reflect estimates of hazards ratios when time-correlated covariates are allowed to vary with time. While the significance and directionality are generally in line with our main findings in Table 1, they lead us to reassess our interpretation of several variables. *Presidential Alignment* remains significantly correlated with shorter nomination periods in the non-proportionality-corrected model. While its interaction is negative and significant, the coefficient is small relative to the coefficient of the indiviudal covariate, suggesting that while the effect of *Presidential Alignment* may wane over the duration of a vacancy, the effect is relatively consistent across time. These findings continue to support our primary hypothesis that presidents will make nominations to politically aligned districts at a faster pace than in disaligned ones.

Both *Inherited* and *New Seat* were negative in the initial model, but are positive when including time interactions and steadily decrease over time. *New Seat* is no longer significant. Unlike in the initial model, the main coefficient for *Statutory Court Size* is positive, however when factoring in the time-interaction, this effect reverses after less than two weeks. Other controls that are consistent with main findings *Senate Courtesy*, *Divided Senate*,, *Blue Slip Potential*, and *Total Vacancies* all initially increase the likelihood of nomination, but see this effect decline over time. Ultimate

Table F.1: Non-Proportionality Test the Effects of Presidential Alignment on Vacancy Duration

	(1)
Presidential Alignment	26.345**
	(3.371)
Inherited	3.151**
	(0.550)
New Seat	0.621
	(0.563)
Senate Courtesy	1.286*
	(0.617)
Blue Slip Potential	1.855**
	(0.590)
Divided Senate	5.706**
	(0.778)
Partisan Composition	0.982
	(0.580)
Statutory Court Size	0.094**
	(0.028)
Total Vacancies	0.201**
	(0.024)
Presidential Alignment × ln(Days)	-4.835**
	(0.585)
Inherited × ln(Days)	-0.504**
	(0.098)
New Seat × ln(Days)	-0.127
	(0.105)
Senate Courtesy × ln(Days)	-0.232*
	(0.106)
Blue Slip Potential × ln(Days)	-0.360**
	(0.102)
Divided Senate × ln(Days)	-1.073**
	(0.135)
Partisan Composition × ln(Days)	-0.186
	(0.105)
Statutory Court Size × ln(Days)	-0.019**
	(0.005)
Total Vacancies × ln(Days)	-0.037**
	(0.004)
Term fixed effects	✓
Observations	3,103
Log Likelihood	-10,923.340
Note:	**p<0.1; *p<0.05

G Divided Senate Control

Table G.1: Interbranch Conflict and the Effects of Presidential Alignment on Vacancy Duration

	(1)	(2)	(3)	(4)
Presidential Alignment	1.284**	1.238**	0.757	0.817
	(0.440)	(0.460)	(0.498)	(0.542)
Divided Senate	−1.233**	−1.349**	−1.374**	−1.107**
	(0.309)	(0.322)	(0.305)	(0.342)
Presidential Alignment x Divided Senate	2.136**	2.214**	2.252**	1.803**
	(0.573)	(0.604)	(0.561)	(0.662)
Inherited		−0.414**	−0.429**	−0.463**
		(0.068)	(0.070)	(0.070)
New Seat		−0.471**	−0.478**	−0.539**
		(0.117)	(0.121)	(0.115)
Senate Courtesy			0.223*	0.244**
			(0.098)	(0.095)
Blue Slip			−0.120	−0.109
			(0.084)	(0.074)
Partisan Composition				0.250
				(0.132)
Statutory Court Size				−0.023**
				(0.004)
Total Vacancies				0.004**
				(0.001)
Term fixed effects	✓	✓	✓	✓
Observations	3,103	3,103	3,103	3,103
Log Likelihood	−14,605.920	−14,561.850	−14,546.950	−14,513.580

Note: Coefficients are estimated from Cox proportional hazards model with robust standard errors in parentheses clustered on state. President-term fixed effects are included but not reported.

* indicates $p < .05$, ** $p < .01$ (two-tailed tests).

H Nuclear Option

Table H.1: The 2013 Nuclear Option and the Effects of Presidential Alignment on Vacancy Duration

	Whole Sample	2009-2016	113th Congress
Presidential Alignment	1.101**	1.359	-2.422
	(0.466)	(1.140)	(3.893)
Nuclear Option	-1.340*	-0.396	-1.505
	(0.712)	(0.710)	(1.937)
Presidential Alignment $\times NuclearOption$	2.647**	1.017	3.342
	(1.259)	(1.322)	(3.215)
Inherited	-0.470***	-0.346*	-18.428***
	(0.070)	(0.206)	(0.862)
New Seat	-0.544***	-2.152***	-1.953***
	(0.117)	(0.241)	(0.357)
Senate Courtesy	0.213**	0.395	0.400
	(0.097)	(0.292)	(0.437)
Blue Slip Potential	-0.118	-0.633**	-0.612
	(0.076)	(0.271)	(0.423)
Divided Senate	-0.133*	1.149	
	(0.070)	(1.384)	(0.000)
Partisan Composition	0.241*	0.424	1.542**
	(0.135)	(0.381)	(0.759)
Statutory Court Size	-0.025***	-0.033***	-0.007
	(0.004)	(0.008)	(0.022)
Total Vacancies	0.003***	0.070	
	(0.001)	(0.062)	(0.000)
Term fixed effects	✓	✓	
Observations	3,103	597	111
Log Likelihood	-14,512.910	-1,965.685	-306.074

Note: Nuclear option is an indicator for whether a vacancy appeared after the nuclear option was invoked in November 2013. The first column shows results from the entire time period (1961-2018). The second column shows results when focusing just on the Obama presidency (2009-2016). The third column shows results from just the 113th Congress (2013-2014). President-term fixed effects are included but not reported.

* indicates $p < .05$ (two-tailed tests), ** $p < .01$ (two-tailed tests).