Research Note

LAW, POLITICS, AND JUDICIAL DECISION MAKING: LOWER FEDERAL COURT USES OF SUPREME COURT DECISIONS

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Lower federal courts are crucial to the interpretation and implementation of Supreme Court decisions. Research demonstrates considerable variation in their responses to these decisions. Explanations of these responses are not well developed, and few efforts test competing hypotheses. My research tests the hypotheses derived from two models of lower court behavior—a legal model and a political model. The analysis demonstrates that the legal model accounts for more variation in the use of Supreme Court decisions by lower federal courts.

I. AN OVERVIEW OF THE RESEARCH PROJECT

This note reports a test of two competing theoretical models of lower federal court reactions to Supreme Court decisions. The first, a legal model, emphasizes characteristics of the Supreme Court decision itself and other factors typically associated with legal reasoning. The second, a political model, emphasizes political factors that may influence federal judges' decision making.

The data for this research are lower federal court reactions to fourteen randomly selected Supreme Court decisions announced from 1950 through 1975. These fourteen decisions include four civil liberties cases, seven economic liberties cases, and three nonscale or other issue cases. Obviously these decisions cannot be considered a statistical sample of high court de-

cisions, but the number is larger and the cases' subject matter is more varied than most previous impact studies.

The unit of analysis is the federal court of appeal or district court decision wherein one of the fourteen Supreme Court decisions was cited in majority, concurring, or dissenting opinions. LEXIS, WESTLAW, and *Sheppard's Citations* were used to identify a universe of 311 cases in four federal circuits (2d, 5th, 9th, and D.C.) that cited at least one of the fourteen Supreme Court decisions from the time they were announced until 1980. A potential problem with this sample is that the fourteen Supreme Court decisions can have between five and thirty years of citations. Preliminary analysis, however, showed that the number of years during which the original decision could have been cited was unrelated to the actual number of citations to the original decision. Moreover, the span of time between the original decision and the lower court citation was unrelated to the direction of lower court reactions or to the study's independent variables. A panel of law students collected the data using content analysis to measure qualitative aspects of the judicial decisions.

II.   THE NATURE OF LOWER COURT RESPONSES TO SUPREME COURT DECISIONS

Most impact research focuses on one of three features of a judicial decision to which lower courts may respond: the decision's holding (Peltason, 1961), the opinion's reasoning (Canon, 1973), and the case's policy outcome (Baum, 1980). To be sure, some research may cover more than one of these categories (Johnson and Canon, 1984), but it is important to realize that treatments may vary depending on the reaction studied. Few researchers find instances of lower courts ignoring the holding in a Supreme Court decision, but treatments of the reasoning or policy outcomes vary widely.

I shall examine reactions on each of these three dimensions. Working with a panel of four law students, I developed profiles of the holdings and key points of reasoning in each of the fourteen Supreme Court decisions. Rotating panels of three students evaluated lower court decisions against these standards. Reactions were classified into two categories: (1) the holding (reasoning) was followed and applied, or (2) the holding (reasoning) was neither followed nor applied. A two-out-of-three decision rule was used to classify lower court cases. At least two panelists agreed more than 80 percent of the time. We found that the holdings were usually neither followed nor

applied (36% followed versus 64% not followed or not used). Reasoning, however, was followed and applied more often (54.2% followed versus 45.8% not followed or not used). In very few instances did the lower courts clearly fail to follow one of the fourteen decisions when it was a determinative precedent (Tarr, 1977: 39–40; see also Baum, 1978). The most frequent treatment in the not followed category was that the case was merely cited, and being followed or distinguished was not particularly expected given the facts and issues of the case. In a small number of cases, lower courts distinguished the Supreme Court decision (13.6% for the holding and 2.7% for reasoning), but the panel believed virtually all were appropriate interpretations of the decisions. In a smaller number of cases (9% for the holding and 3.7% for reasoning), the panel agreed that the lower court could have used or distinguished the Supreme Court decision but did not. I did not treat these cases separately since their numbers are small and it may be inappropriate to view them as inconsistent or noncompliant with the original Supreme Court decisions. Thus, the not followed or not applied category applies to cases in which the lower court simply did not give positive treatments to a Supreme Court decision.

I measured consistency of policy outcomes by whether liberal or conservative Supreme Court decision outcomes were duplicated by liberal or conservative outcomes in lower courts. Although admittedly a gross indicator of consistency, this measure does assess whether the political direction of the decisions is the same. Similar outcomes indicate positive treatments; different outcomes indicate negative treatments. The consistency of policy outcomes was almost evenly split: 50.4 percent consistent and 49.6 percent inconsistent.

Lower court reactions to the holding, reasoning, and consistency of policy output are not highly correlated (see Tables 1a and 1b). As one might expect, a moderate correlation develops between outcome and holding, but the correlation is less for holding and reasoning. The number of cases for each possible combination of treatments is also reported in Table 1b, and demonstrates the varied treatment lower courts gave to the Supreme Court decisions.

III. EXPLAINING LOWER COURT REACTIONS

A. *The Legal Model*

Not all Supreme Court decisions are equally compelling as precedent. Some have only one reasonable interpretation,

Table 1a. Interrelationship of Dependent Variables: Correlations (Gammas) of Treatments of Supreme Court Decisions by Lower Federal Courts

	Holding	Reasoning	Consistency
Holding		.37*	.51*
Reasoning	$N = 242$		.07
Consistency	$N = 233$	$N = 239$	

*$p < .01$.

Table 1b. Interrelationship of Dependent Variables: Crosstabulation of Treatments of Supreme Court Decisions by Lower Federal Courts

Holding	Reasoning	Consistency	Number*
Followed	Followed	Consistent	34
Followed	Followed	Not consistent	18
Followed	Not followed	Consistent	19
Followed	Not followed	Not consistent	11
Not followed	Followed	Consistent	24
Not followed	Followed	Not consistent	42
Not followed	Not followed	Consistent	27
Not followed	Not followed	Not consistent	43

*N does not total to 311 due to missing measures on one or more variables.

while others are subject to wildly different interpretations. Whether a decision is compelling with respect to a lower court case may depend on the leeways for interpretation provided by at least three sets of legal factors: (1) original case characteristics, (2) follow-up decisions by the Supreme Court, and (3) similarities between the original and lower court cases.

1. **Original case characteristics.** Three features of a court's original decision may be critical to later interpretations: its communicability, persuasiveness, and Court support (see Wasby, 1973; Johnson, 1967). In theory, because poorly communicated decisions are ambiguous or complex, they are less likely to be followed. I developed indices for clarity and complexity based on the panel's evaluation of each original Supreme Court decision. Panelists briefed each decision and coded the facts, issues, holdings, and reasoning as being generally clear or unclear and complex or simple. Clarity judgments were based on whether the reader could easily determine relevant facts, issues, holdings, and reasoning. Complexity judgments were

based on the estimated number of items or bits of information one should consider to understand the relevant sections of the opinion. Panelists classified opinions with four or fewer distinct facts, issues, holdings, and reasoning components as simple and those with a greater number as complex. Analysis along these dimensions revealed considerable panel consensus for most opinions. In the few instances in which the coders could not agree, I recoded the cases as unclear or complex because such opinions could also be potentially troublesome for lower courts.

Each original Supreme Court decision had two communicability measures: Clarity is the sum of the scores for the clarity of the facts, issues, holdings, and reasoning (0 = unclear; 1 = clear). Simplicity is the sum of the scores for the complexity of these four components (0 = complex; 1 = not complex). For each of these scales the higher the score, the higher the communicability of the decision.

The persuasiveness of Supreme Court opinions relies on two measures used elsewhere (Landes and Posner, 1976; Merryman, 1977) to evaluate authorities in judicial opinions: the number of citations to Supreme Court decisions in the original majority opinion and the median age of the citations. The number of citations measures the degree to which the Court ties its decision to existing law, thus perhaps showing continuities and discontinuities as well as providing a precedential basis for the decision. Accordingly, the greater the number of citations, the more likely it is to be followed. The age of the citations reveals the degree to which the Court relies on old or new precedents. Since new precedents are generally considered more persuasive than older ones, one would expect greater positive treatments (e.g., following) of cases with lower median age citations.

Lower courts may be substantially influenced in their responses to Supreme Court decisions if they perceive the Court was strongly united in its decision (Wasby, 1970: 251; cf. Johnson, 1979). I used size of the decision majority and the presence or absence of a dissenting opinion as two measures of Court support.

2. **Follow-up decisions.** The Court may underscore its commitment to a case in subsequent decisions by expanding its holding or reasoning to another area or by limiting, distinguishing, or virtually ignoring it (Romans, 1974; Gruhl, 1980). The panel read all Supreme Court decisions citing one of the fourteen original decisions and classified such follow-up decisions as

positive (e.g., following or expanding the original), neutral, or negative (e.g., distinguishing, limiting, or overturning the original). Since negative treatments are rare (cf. Johnson, 1981), the number of positive treatments was measured as a percentage of all treatments of the original decision. A second measure was whether the policy direction of the original decision was maintained. If a follow-up decision shared the same ideological direction as the original, it was classified as consistent; otherwise it was classified as inconsistent. Policy consistency is operationalized as a percentage of the consistent follow-up decisions.

Both of these percentage scores change over time as follow-up decisions are rendered by the Supreme Court. Each lower court decision will therefore have an individual score for these two variables, which assesses follow-up decisions up to one month before the date of the lower court decision.

3. **Case similarities.** Legal theory would predict that similarities between the Supreme Court and lower court cases affect lower court reactions. The panel classified cases as being factually similar or dissimilar. To assess litigant similarities, the panel first grouped litigants into seven categories: federal government, state government, local government, businesses, labor, individuals, and other (cf. Ulmer, 1978). The number of litigant pairs that were the same at the Supreme Court and lower court levels (0 pairs, 1 pair, or 2 pairs) served as a measure of litigant similarity. These comparisons ignored litigant status (petitioner versus respondent or appellant versus appellee). The degree of similarity for legal claims was measured by a comparison of West Publishing's keyword headnote categories in the original and lower court decisions. The number of keywords that were the same in both decisions was expressed as a percentage of all keywords in the lower court decision. I assume that as this percentage increases, the degree of subject matter overlap between the decisions increases.

B.   The Political Model

Research on lower court decision making suggests that political variables such as partisanship or environmental pressures often help determine the liberal or conservative nature of decisions (see Goldman and Jahnige, 1985: chap. 5). However, studies linking political factors to responses by lower courts to high court decisions are few and their results are mixed. Two sets of potentially influential factors emerge from prior work: the responding judges' partisan identification and their national versus local orientation.

The claim that Democratic and Republican lower court judges decide some cases differently is well documented (see Carp and Rowland, 1983). Although much of that work addresses the ideological outcomes of cases, there are occasional suggestions that orientations toward and use of Supreme Court decisions may differ across Democratic and Republican lines (Howard, 1981: 169–170; but see Wold, 1974: 243–244). Republican judges generally are thought to be more precedent oriented, which suggests that they would follow Supreme Court decisions more often than would activist, policy-making Democratic judges (Tarr, 1977: 77–78).

Their politics may also influence how judges react to the policy direction of a Supreme Court decision. Democratic judges, for example, may respond more favorably to liberal decisions than to conservative ones (cf. Barber, 1969). I assess the influence of party-policy interaction with a general measure whereby the ideological direction of the original decision is crosstabulated with the party of the lower court judge using the case. (To minimize the amount of missing data, the appointing president's party identification was used to determine the judge's party identification.) I coded for consistency or inconsistency between the liberal or conservative slant of the Supreme Court's decision and the party of the judges. Impact theory suggests more positive responses following or expanding the original Court decision in cases that were ideologically consistent than in those that were inconsistent.

To evaluate the impact of local versus national orientation, I classified judges' political experiences primarily on either the state or national levels. I placed lower court judges into one of four categories based on whether they had held a public, nonjudicial office: (1) no public office, (2) state offices only, (3) both state and federal offices, or (4) federal offices only. This scale is roughly ordinal, ranging from primarily local to primarily national orientations. A measure of local versus national orientation of judicial background is also used. To test the hypothesis that judges with federal judicial experience would be more supportive of Supreme Court decisions, I used a four-point scale similar to that described for public offices.

IV. FINDINGS

Table 2 displays correlations (gammas) between the legal and political model variables and the three dependent variables. The direction of the hypothesized relationship is also indicated. I coded dependent variables such that positive uses of

Table 2. Bivariate Correlations (Gammas) between Legal and Political Variables and Treatments of Supreme Court Decisions[a]

	Predicted Direction	Holding			Reasoning			Consistency		
		All Cases	Courts of Appeal	District Courts	All Cases	Courts of Appeal	District Courts	All Cases	Courts of Appeal	District Courts
Legal model										
Clarity	+	.08	.10	.07	.11	.12	.27	-.06	-.05	-.09
Simplicity	+	-.40[b]	-.32[c]	-.61[d]	.13	-.15	.45[c]	.14	.18	.15
Number of citations	-	.08	.04	.14	.16[c]	.25[c]	-.18	-.14	-.19	-.13
Median age of citations	+	-.08	-.06	-.14	.09	.08	.10	.03	.05	.02
Size of majority	+	-.03	.14	-.32	.35[d]	.12	.67[b]	-.03	.01	-.09
Dissenting opinion	-	.01	-.16	.31	-.36[d]	-.01	-.70[b]	-.03	-.11	.09
Percent positive follow-up cases	+	-.11	.04	-.25[c]	.19[d]	.22[c]	.07	-.08	-.16[c]	.08
Percent consistent follow-up cases	+	.07	.06	-.11	.22[d]	.07	.41[b]	.00	-.02	.08
Facts similar	+	.28[c]	.32[c]	.24	-.12	-.19	.09	.15	.10	.19
Litigants similar	+	.34[b]	.28[c]	.46[c]	-.08	-.05	-.02	.42[b]	.48[b]	.29[c]
Issues similar	+	.01	.01	.01	-.01	-.08	.16	.06	-.02	.17
Political model										
Judge's party	-	.10	.14	.04	-.18	-.10	-.28	.08	.14	-.05
Party-policy consistency	+	-.11	-.30	.20	.21[c]	.15	.22	.04	.03	.04
Democratic party-policy consistency	+	-.19	-.32	.01	.51[d]	.40	.70[d]	.13	.03	.08
Republican party-policy consistency	+	.15	-.44	.82[c]	-.39	-.37	-.60[c]	.32	.09	.70
Previous national office experience	+	.00	.03	-.06	-.16	-.28[c]	.02	-.23[c]	-.17	-.32[c]
Previous national judicial experience	+	.02	.06	-.20	-.13	-.08	-.17	.10	.21	.03

[a] Maximum N for all cases = 311, for courts of appeal = 158, and for district courts = 153. Missing information for some cases reduces the sample size for some correlations.
[b] $p < .001$.
[c] $p < .05$.
[d] $p < .01$.

the opinion (e.g., holding followed, reasoning used, and outcome consistent with the original decision) are greater than neutral or negative uses.

A. *The Legal Model*

Correlations involving the legal model point to the importance of three sets of variables—Court support for the original decision, follow-up decisions, and case similarities. The strongest predictors for positive treatments of the holding are factual and litigant similarities. Except for the negligible correlation with issue similarities, these correlations are fully in line with the classic *stare decisis* model (Levi, 1949), which holds that if one case is roughly equivalent to a previous case, the holding of the previous case will apply. The only other strong correlation for the holding involves the noncomplexity of the Supreme Court decision. Here, however, the correlation is directly opposite from the original prediction, for complex decisions are followed more often. One possible explanation for this finding is that because complex decisions have several factual points and holdings, they have many "handles" that lower courts may grasp to justify their decisions.

In contrast to treatments of the holdings, use of the reasoning is related to original decision support and follow-up decisions. Here, too, theoretical links are sound. If a decision is supported by a large majority and has no dissent, lower court judges may reasonably assume that application of that case's reasoning is expected in the lower courts, perhaps because there is no reasonable alternative. Under such circumstances, use of the reasoning is consistent with judicial role expectations and is a way to avoid being overturned on appeal. Furthermore, because reasoning with strong support on the Supreme Court may be more safely applied to a broad range of cases regardless of whether the cases are similar, correlations with similarity measures are not significant. Finally, the weak but statistically significant correlation involving the number of citations in the original decision suggests that legal support may also reinforce the expectation that legal reasoning with greater precedential ties is used more often by lower courts.

Subtle (and perhaps more difficult to measure) legal variables such as clarity, complexity, and persuasiveness are not related to treatment. The absence of any relationship may, of course, be the result of measurement error. More likely, however, these results suggest that most Supreme Court decisions are sufficiently well written and well argued that minor varia-

tions do not affect lower court reactions, if indeed lower court judges discern any differences at all (cf. Tarr, 1977; Johnson, 1979).

B.   The Political Model

The only political variables that are related in the predicted way to lower court reactions concern the party-policy interaction variables. Even here, however, only Democratic judges are reacting as predicted in their use of the reasoning. Unlike their Republican counterparts, Democratic judges appear to use the Supreme Court's reasoning in cases with which they are likely to agree (liberal decisions) and to ignore or distinguish those with which they disagree.

Holding previous political office is related to outcome consistency, but this relationship is opposite of that expected. Although not statistically significant, the negative correlations between local versus national orientation and the use of the reasoning and outcome consistency suggest that federal experience does not produce a national orientation, contrary to the findings of others. Federal experience may actually increase a judge's independent policy-making propensities, rendering him or her less receptive to Supreme Court leadership.

C.   Reactions in Courts of Appeal and District Courts

Like all appellate courts, the federal courts of appeal serve to correct errors made by federal trial courts. Accordingly, the courts of appeal should be more supportive of Supreme Court decisions. Moreover, since they are further removed from politics (or at least local politics) and are theoretically closer to the Court, their decisions should be more affected by factors associated with the legal model. However, neither of these expectations is fully confirmed by the research.

Correlations (gammas) between the level of the court and reactions are negligible for the holding ($-.07$) and the outcome (.09). However, a strong negative correlation ($-.49$; $p < .01$) develops for use of the reasoning, which means that federal district courts are far more likely to use the Supreme Court's reasoning than are courts of appeal. The percentages for use of the reasoning are 69.9 percent in district courts versus 44.1 percent in courts of appeal. These data draw into question our conception of the courts of appeal as enforcers of national norms. Federal district courts, on the other hand, which are very attentive to policies in their own circuit (Baum, 1980) and whose cases are often reviewed by courts of appeal, may rely

heavily on Supreme Court precedents as one way of avoiding reversal.

Table 2 also reports correlations between legal and political model variables controlling for level of the court. Contrary to expectations, many legal variables have a stronger impact in federal district courts than in courts of appeal. In federal district courts, use of the holding is significantly influenced by litigant similarities (.46) and simplicity (−.61); the reasoning is influenced by simplicity (.45), size of majority (.67), dissenting opinion (−.70), and consistent follow-up cases (.41). Litigant similarity is moderately correlated (.29) with outcome consistency. Political model variables in these courts are largely unrelated except for Republicans responding to the holding (.82), Democrats responding to the reasoning (.70), and non-judicial federal experience correlating negatively with outcome consistency (−.32).

Legal and political model variable correlations are generally lower for courts of appeal than for district courts. The former are influenced positively by factual and party similarities (.32 and .28, respectively) and inversely by simplicity of the original decision (−.32) for the holding; reasoning use is affected by the number of citations (.25) and positive follow-up cases (.22). The strongest correlation develops between policy outcome and party similarity (.48). Among political variables, except for the inverse correlation of the judge's political background with use of the reasoning (−.28), none of the correlations are statistically significant.

The finding that federal district courts are more influenced by both legal and political variables than are courts of appeal suggests two very different decision-making situations. District courts are evidently very sensitive to Supreme Court policies, the support they receive, and the applicability of relevant precedents in similar cases. Among some district judges, the party-policy interaction also affects their decisions, with Republicans being influenced in their use of the holding and Democrats using the reasoning from cases that are consistent with their attitudes. The picture drawn by these correlations is one in which district courts are caught in the situation described by Richardson and Vines (1970) where both the legal and democratic cultures influence their decision making.

Courts of appeal, by contrast, are not more likely than district courts to follow Supreme Court decisions, and their decisions are not influenced by legal or political factors. Thus these courts, which Howard (1981: 8) terms the "vital center of the

federal judicial system," appear to be fairly independent of either the legal or democratic cultures.

V.   COMPARING LEGAL AND POLITICAL VARIABLES

A limitation of many previous impact studies is that researchers do not make comparisons of rival hypotheses. To this point, the present analysis suggests that a full array of variables are related to lower court responses to Supreme Court decisions. Like previous work in the judicial area (Ulmer, 1984), I used multivariate discriminant analysis to explain variations in our dependent variables, which are essentially dichotomous. Specifically, I used step-wise discriminant analysis to identify the variables significantly and independently related to reactions of lower courts. Importantly, this step-wise routine reevaluated every variable included and excluded from the model during each step, thus avoiding some of the pitfalls of standard step-wise regression routines (Nie *et al.*, 1975). I included variables in the final model only if their contribution was significant at the .10 level, and the entire model was significant at the .05 level.

Tables 3a and 3b report the results of the discriminant analysis. Variables significantly related to the holding, reasoning, and consistency reactions are listed for all cases and within different levels of courts. Those variables enclosed by parentheses are related in a direction opposite from that hypothesized above. Canonical correlations are given for the optimal model, which includes only those variables that independently and significantly help to explain the dependent variable. The canonical correlation for the saturated model, which includes all independent variables, is also given. The difference (in most cases very small) between the correlations for the optimal and saturated models indicates the degree to which the former efficiently explains the dependent variables with a smaller number of variables. Finally, significance levels are also given for the correlations. Although they are larger than optimal model correlations, saturated model correlations are almost always statistically insignificant because the large number of independent variables uses more degrees of freedom.

The discriminant analysis shows that, in explaining the holding, the degree of litigant similarities appears to have an overriding impact. Use of the reasoning is related to the greatest mixture of variables. Legal support variables such as positive follow-up Supreme Court cases and presence of dissent have the hypothesized impact of increasing use of the reason-

Table 3a.   Discriminant Analysis for Reactions to Supreme
Court Decisions: Variables in Model and Optimal
and Saturated Canonical Correlations (variables
defined in Table 3b)

	All Cases	Level of Court	
		Courts of Appeal	District Courts
Holding			
Variables	$C, J, (H)$[a]	J	$J, (G)$
Optimal correlation	$.28^b$	$.17^d$	$.35^b$
Saturated correlation	.31	.32	.50
Reasoning			
Variables	$G, N, (P)$	G, P	F, N
Optimal correlation	$.25^c$	$.28^c$	$.34^b$
Saturated correlation	.33	.38	.50
Consistency			
Variables	$J, (P)$	J	(E)
Optimal correlation	$.23^c$	$.26^c$	$.26^d$
Saturated correlation	.31	.42	.33

[a]Letters in parentheses indicate variables that were correlated in a direction opposite to
that originally hypothesized.
[b]$p < .001$.
[c]$p < .01$.
[d]$p < .05$.

Table 3b.   Summary of Discriminant Analysis for Reactions to
Supreme Court Decisions

Variables	Predicted Direction	Included in Hypothesis or (Contrary to Hypothesis) of One or More Models		
		Holding	Reasoning	Consistency
Legal				
A: Clarity	+			
B: Simplicity	+			
C: Number of citations	+	1		
D: Median age of citations	−			
E: Size of majority	+			(1)
F: Dissenting opinion	−		1	
G: Percent positive follow-up cases	+	(1)	2	
H: Percent consistent follow-up cases	+	(1)		
I: Facts similar	+			
J: Litigants similar	+	3		2
K: Issues similar	+			
Political				
L: Judge's party	−			
M: Party policy consistency	+			
N: Democratic party-policy consistency	+		2	
O: Republican party-policy consistency	+			
P: Previous national office experience	+		(2)	1
Q: Previous national judicial experience	+			

ing. Political variables have their greatest effect on use of the reasoning; however, in most cases, the association is counter to that hypothesized. Only in district courts do Democratic judges (Democratic party-policy consistency) respond as predicted. Other relationships with political variables indicate that federal judicial experience is associated with less use of Supreme Court reasoning. The outcome consistency of lower court reactions is most often associated with litigant similarity. Generally, this association means that classes of litigants who win in the Supreme Court are also likely to win in lower courts.

VI. CONCLUSION

Do lower federal courts pay attention to Supreme Court decisions in their own decision making? The answer is that it depends. Positive treatments are likely if facts, issues, or (especially) litigants are generally similar between cases in the two courts. Support on the Court for the original decision or supportive follow-up decisions lead to greater use of the reasoning, but generally the manner in which the majority opinion is fashioned appears to make little difference in lower courts. Democratic judges are more inclined to use the Court's reasoning in opinions with which they are likely to agree, but party affiliation does not have the impact one might expect, given its importance in predicting liberal or conservative decisions. Finally, if the responding lower court judge has federal judicial experience, Supreme Court decisions are less likely to receive positive treatments.

Paying attention to Supreme Court decisions also appears to depend on the level of court using the decision. Federal courts of appeal are no more likely than federal district courts to follow a Supreme Court's holding or to decide in a manner consistent with the policy thrust of the Court's decision. Courts of appeal are even less likely than district courts to follow the high court's reasoning. Moreover, the explanatory power of legal and political variables is substantially less for courts of appeal than it is for district courts (see optimal and saturated correlations in Table 3a).

In addition to testing longstanding judicial impact hypotheses, this research has other implications for our general understanding of judicial decision making and decision making in lower federal courts. Explanations of judicial decision making tend to emphasize personal and environmental factors while downplaying legal factors. The few explicit tests of legal factors in the form of fact-pattern analysis (Kort, 1973; Segal,

1984) find that fact patterns do relate well to judicial decisions, although some studies view them as extralegal variables. Other studies, such as that by Gibson (1980), find that lower criminal court decisions are substantially explained by legal variables such as statutory penalties.

This analysis partially supports those who argue that legal factors in part account for judicial behavior, especially in lower courts. The fact is that lower courts in this study followed the Supreme Court's holding or reasoning in a substantial number of cases. Moreover, when the influence of legal variables was heightened—e.g., when similarities existed between the high and lower court cases—lower courts often followed the high court's decisions. Even further, bivariate correlations suggest that the Court's support for its decisions influences the use of those decisions in lower courts. Thus, the legal model of judicial decision making may reasonably describe the behavior of lower courts on at least some occasions. The point is that judges must make choices but within limited options. This research demonstrates that their options are sometimes sufficiently limited so that legal considerations heavily influence outcomes.

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