

If we are going to elect our judges, we should use partisan ballots

While at a federal level judges are appointed by the President, in 22 states they are elected. One characteristic of many of these judicial elections is that ballots are nonpartisan, an innovation that was introduced with the intention of forcing voters to evaluate candidates more closely. In new research which examines a court race in North Carolina, [Craig M. Burnett](#) and [Lydia Tiede](#) find that nonpartisan ballots only make decision making more difficult for voters. They also find that partisan voters prefer candidates to be labelled, so as to best match their preferences, but also that labelling candidates helps independent voters to decide who most closely matches their own policy interests as well.

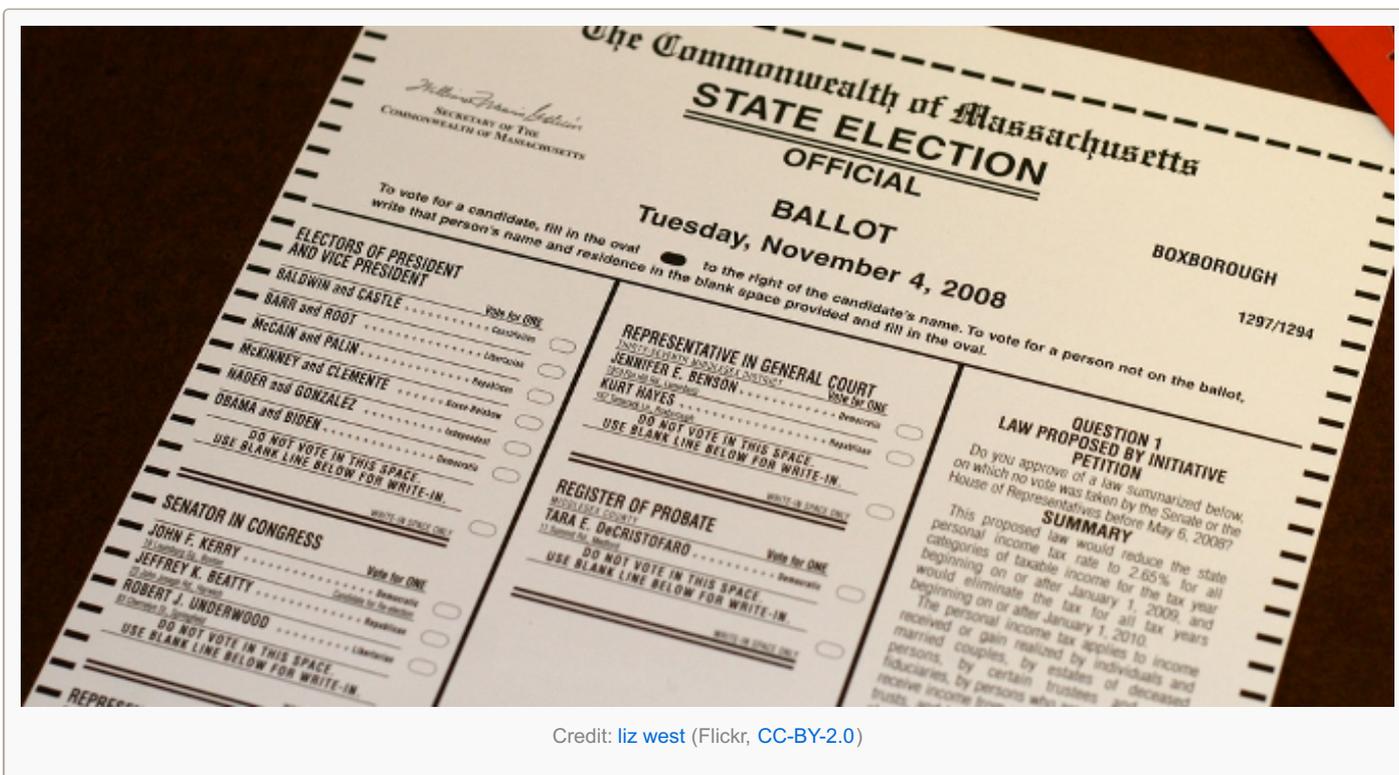


One byproduct of American federalism is that voters must elect numerous positions, with some states offering ballots that resemble phone books. In addition to “big ticket” offices such as president and Congress, many states ask voters to select judges at both the state and local level. Asking individuals to select judges complicates the democratic process as judicial elections, which require judges to campaign and fundraise, have the potential to compromise impartiality in future legal proceedings. With [voter knowledge lacking on many issues](#) and judicial elections being typical “down ballot” events, voter knowledge is comparatively low for these contests. Failing to provide party labels makes it more difficult for voters to acquire knowledge about candidates. In [recent research](#), we uncover evidence suggesting that partisan labels not only help partisans find the judicial candidate who match their interests, but that *these labels help independent voters as well*. In states that elect judges, we conclude that partisan ballots are preferable to nonpartisan ballots.



Judicial elections are widespread in the United States. The vast majority of the fifty states elect at least some justices, while 22 states elect all of their judges. There has been considerable consternation among legal scholars and policymakers whether electing judges at the state level is appropriate. After all, the architects of the Constitution opted for appointment by the president with Senate approval for federal judges. These appointments include lifetime tenure, helping insulate judges from the political whims of both politicians and the electorate. Notably, the American Bar Association and American Judicature Society generally endorse selection methods other than elections. It seems clear to most observers of judicial politics, however, that judicial campaigns will remain a fixture at the subnational level. Indeed, as [Jim Gibson shows in his recent book](#), Americans appear quite comfortable electing their judges.

There are, of course, several interesting policy innovations with regards to judicial selection. At the state level, there are five selection methods, including partisan and non-partisan elections. Some judges receive appointments from an elected official and are then subject to retention elections where the sitting judge is the only candidate on the ballot. In other states, a nonpartisan commission drafts a list of acceptable candidates from which an elected official can choose (also known as the merit or [Missouri Plan](#)). These selection methods are comparatively less common than electing judges.



The legacy of the reform movement in United States that occurred during the early 20th century still holds significant sway over current policies. As a response to entrenched parties and political machines, Progressives preferred nonpartisan ballots in an attempt to minimize the power of the political parties. In addition to limiting party control, reformers argued that nonpartisan ballots would produce a better, more informed electorate. Progressives believed that withholding party labels would deprive voters of a cognitively cheap shortcut, thereby inspiring them to evaluate candidates more carefully without relying on their political predispositions. All the evidence that we have amassed about the American voter, however, suggests that they do not match this democratic ideal. The introduction of nonpartisan ballots, while succeeding in helping to limit some aspects of partisan politics, has only increased the difficulty of decision-making for most voters while producing uncertain (and likely negative) returns for the average voter.

We set out to examine the degree to which party labels matter and, subsequently, whether the presence of the labels improves voters' decision-making. Using a North Carolina appellate court race as our case, we randomly assigned half of our sample to receive party labels while the other half did not receive the labels. Of course, we wanted to look at the obvious question of whether party labels help partisans (surprisingly, there was some disagreement about this outcome in the judicial elections literature). As expected, partisan voters prefer to support the judicial candidate who shares their party attachment.

We also took a closer look at an understudied, but perhaps the most important, group of voters: independents. To do this, we examined whether providing the party labels of judicial candidates helped our subjects, including those who identify themselves as independents, select the candidate who matched their own position on a controversial issue — same sex adoption — that one of our judicial candidates had voiced an opinion. Our empirical analysis showed that providing party labels not only helped our subjects select their fellow partisans, but also helped them choose the candidate who matched their policy preferences on this issue. What was most remarkable about this finding is that some of the strongest effects were among independent voters. As an ideologically heterogeneous group, independent voters are particularly challenging to study and predict. Here, we were able to demonstrate that party labels actually helped independents make choices that matched their own policy preferences, a unique finding in the judicial voting literature.

Overall, our research provided further data and evidence that party labels help individuals make informed choices even for little known lower court judges. An additional and more novel finding showed that party labels helped independents make more informed choices, especially when they have particular opinions on controversial policy positions that may transcend partisanship. In other words, party labels help independents align their own

preferences on policy issues with the best candidate. These findings are important to policymakers and voters alike due to the fact that states are constantly reforming their judicial selection methods with significant time devoted to determining whether partisan or nonpartisan elections are better for selecting judges.

While our research findings are significant to the discussion of judicial selection methods, we don't consider the matter closed. From what we have found, however, our recommendation to policymakers is to help alleviate the costs that elections place on busy voters by affixing party labels to judicial candidates.

This article is based on the paper 'Party Labels and Vote Choice in Judicial Elections', in American Politics Research.

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