PUBLIC LAW

Section E

Do attorneys matter: A deeper look at Supreme Court decision-making

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Abstract

The Supreme Court is the ultimate decision maker in determining what laws we follow in our everyday lives, but is the Court's opinion affected by the parties who present cases to the Court? This paper examines whether attorneys within the last decade have been able to affect the outcome on cases that are partisanly divided in the Supreme Court. This paper will argue that when a politically polarized issue is heard before the Supreme Court the justices are more likely to be influenced by their own previously held political beliefs as oppose to the argument made by the attorneys before the Court. This study uses quantitative analysis, specifically a content analysis, focusing on oral arguments that have been heard before the Supreme Court. Through this analysis, I was able to find that an attorney does not have an effect, especially in cases that are partisanly divided. Justices in the Supreme Court are basing their decisions off of issues they know to be true or off their own interpretation of the Constitution. Therefore, an attorney's oral argument is not the primary reason for a justice's decision making.

Keywords: Supreme Court; partisan; polarized; attorney

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1. Introduction

Many people use pejorative terms to describe the role an attorney plays in American society, yet many neglect to appreciate the fact that an attorney has a more significant impact on politics and policy. For example, when attorneys appear in front of the Supreme Court, they are able to argue about issues that affect our everyday lives, issues that decide what limitations are placed or removed from our constitutional rights.

It is the responsibility of Supreme Court justices to interpret the Constitution. Yet, what forces influence the justices when they interpret the Constitution? Attorneys appear before the Court to fight for our rights, to defend the Constitution, and argue what is best for society; in some ways, attorneys are our voice in the Supreme Court. But how effective are the attorneys who argue before the Court? Attorneys can argue persuasive cases in front of the Court, but it might have no effect if justices have already made up their mind.

Oral arguments are an important component of Supreme Court cases. Justices allegedly use the oral arguments to question each side of a case and these transcripts are released to the American public for consumption. However, since the Supreme Court is an exclusive club restricted to no more than nine members at a time, justices have a wide array of discretion in how they want to use oral arguments to make their decision. It may be the case that an attorney's oral argument might not have an impact on justices and oral arguments have merely continued through American history for tradition's sake. If this is the case, Supreme Court decision-making is a more mysterious process than even scholars currently suggest. As a part of our democratic institutions, oral arguments allow the public to have a tiny bit of ownership in an already obscure process. The Supreme Court has an impact on every single American, whether we notice or not. As Americans are forced to abide by what the Supreme Court says, we should address how exactly justices are influenced while making their decisions.

This thesis builds on the scholarship of public law scholars to investigate the impact of an attorney's oral argument in Supreme Court cases. Scholars have long recognized the importance of Supreme Court decision-making, as this field of study helps us understand how certain rights and laws are adjudicated. The Supreme Court has had far-reaching effects over the course of American history. However, an attorney litigates at the Supreme Court in order to maintain and fight for the law, the people, and what they believe is best for society. Scholars have paid little attention to the impact attorneys have on decision-making. These attorneys are one of the few people outside the Court who have a direct effect or impact on the justices, they stand in front of the Court and are given a chance to present their case, and no one else is given this opportunity. While history will remember justices, we pay little attention to the attorneys who have argued in front of the Court. At the broadest level, this research seeks to understand the effectiveness of these attorneys on the Supreme Court. More specifically, within the last decade, are attorneys in the Supreme Court able to affect the outcome of partisan cases?

Before we examine these ideas in depth, a few key concepts must be defined from this question. First, this research examines an attorney's effectiveness; in order to determine effectiveness, we are only examining the attorney's oral argument in front of the Supreme Court. In oral arguments, an attorney argues their side in front of the Supreme Court justices. In terms of this paper, we will not be exploring the state Supreme Courts, only the federal Supreme Court. Lastly, this paper seeks to focus on partisan cases. This simply means these cases are issues that have been typically known to be ideologically split, for example, abortion; both the Democratic Party and the Republican Party have distinct positions on the issue of abortion.

This research directly contributes to the ongoing scholarship on the Supreme Court in two ways. As stated prior, not a lot of research has been done to show that an attorney has or has not had an effect on the

Supreme Court. This thesis will help advance the literature by advancing a differing perspective. Most literature published today focuses on effectiveness in a broad sense, few articles focus specifically on partisan issues. Also, most articles were written with a focus on Supreme Court cases from the 1990s or early 2000s, therefore not a lot of research is focused on present arguments or present day cases. There is reason to believe that partisanship has drastically affected politics in the last decade and the scholarship needs to be updated in order to reflect that. Furthermore, effectiveness is hard to measure, leaving it open to various different interpretations. The interpretations or study used in this thesis differs from earlier work in that it will be more quantitative. This quantitative analysis can offer more breadth than previous work, taking more issues and characteristics into account.

Ultimately, this thesis hopes to argue that when a politically polarized issue is heard before the Supreme Court, the justices are more likely to be influenced by their own previously held political beliefs as opposed to the argument made by the attorneys before the Court. Given a cursory look at Supreme Court cases and the opinions we expect justices to hold, it seems that even before a case is heard, we can determine the outcomes of the case based off of the justice's party affiliation. We have strong expectations of the ideology held by sitting justices. Scholars and analysts readily identify extreme right to extreme left positions and somewhat successfully anticipate how a justice will vote on an issue. For example, it is widely accepted that Justice Kennedy is more of a moderate and is often the justice that splits the Court's vote. The fact that we can dissect this information before even hearing the case or the oral arguments should be troubling. This proves, in a sense, that the justices already have their minds made up; in this sense, we may even be questioning the legitimacy of oral arguments.

Of course, justices may very well be influenced by oral arguments, but even in this instance, only in a limited sense. If the justice has a hazy understanding of the facts of the cases that are being presented to them, then an attorney would be able to clear up the confusion and, in that sense, have an influence on the opinion or final outcome of the case. The key problem is that a wide amount of information could be presented to the Supreme Court during the oral argument and thus an attorney could just be repeating the facts or law that the justices are already aware of. In this case, the argument can really go either way.

This thesis utilizes a quantitative research design in order to examine whether or not Supreme Court justices are influenced by oral arguments. An original dataset was created for this thesis. The cases for this thesis were selected by looking at the three attorneys who have argued the most amount of time before the Court in the 21st century. These cases were selected because the attorneys who appear the most before the Court will likely hold the most credibility and skill when arguing their cases, meaning they are the most likely to have an impact on the justices. There are 100 cases, that took place from 2006-2016, that will be analyzed and placed into the dataset. This dataset accounted for several variables including how many conservative justices voted yes on the issues vs. voting no, how many liberal justices voted yes on an issue vs. voting no, how many implied questions were asked of the attorney, how polarized the issue was, etc. In order to produce this dataset, the first factor that needed to be determined was the ideological leaning of each justice. This was done by conducting an online search of each of the justice's political affiliation. The next main factor was extracting data from the oral argumentation in order to identify whether each attorney is being asked a question with an implied answer. An implied question is a question that does not seek an answer meaning that despite what the attorney responds, the justice already has a defined point of view on the matter. Examples of implied questions include questions that start with "wouldn't you agree" or "I am right in saying" and questions that end with the words "right" or "correct." If the attorney is asked more implied questions, then this is an indication that the attorney is most likely not having an effect on the justices. This is because implied questions illustrate ideas that the justice already held before hearing the

oral argument. Lastly, data is collected to compare the oral arguments of the attorneys with the Court's written opinions to see if any similarities exist between the two and if so, then how many. This data collection will include both partisan issues as well as nonpartisan issues to see if a difference is present and how significant that difference is. In order to determine partisanship, the political platforms of the Republican and Democratic parties will be examined to see whether they have a stance on the case being examined by the Court. If there is a clear opinion on a certain issue then that issue will be ranked based on the parties' beliefs, if there is not then that issue will be non-partisan.

At the conclusion of this study, we hope to find that in partisan issues an attorney's influence is non-existent or at best very minimal and weak; proving that the Supreme Court may be biased on partisan issues. Before embarking upon the study, we must first take a look at what existing scholarship has said about the Supreme Court, attorneys, and decision-making.

2. Literature Review

The impact of the Supreme Court has been widely examined in existing literature. This literature review will specifically outline three key understandings of a Supreme Court justice's decision-making: the attitudinal model, the legal/professional model and the rational choice model. Scholars have developed these models to examine and help summarize how justices have decided on cases throughout history. The second section of the literature review will examine factors the literature highlights in terms of what forces can potentially affect a justice's opinions. This section will discuss three factors: amicus briefs, solicitor generals, and attorneys. Finally, in the last two sections attorneys will be examined in terms of how effective they are in cases that are divided amongst partisan lines and those that are not. The literature presented will demonstrate ideas that both help advance and argue against the perspective of this thesis. The argument of this paper is that an attorney has a lack of an effect on the Supreme Court justice's opinions when the issue being argued is partisan.

2.1 Models of Supreme Court Decision-Making

There are three key models that previous studies have utilized in terms of analyzing Supreme Court decision making: the attitudinal model, the legal/professional model, and the rational choice model. Cases are constantly selected and heard in front of the Supreme Court. Political science has analyzed these cases in the formulation of these three methods. Some theories have been more deeply analyzed and researched than others, but a brief understanding of each of these theories is necessary in order to gain an insight into what the justices will consider when ruling one way or another.

The first model, the attitudinal model, states that judges decide cases in terms of their ideological attitudes and biases to reach a conclusion or outcome for the case presented to them (Seamon 548). In a sense, this model is constructed from a mix of various ideas including legal realism, political science, psychology, and economics (Segal 86). It is believed that these justices gather their ideological beliefs from their peers and the environment they grew up (Seamon 548). The attitudinal model can be proved by the fact that cases that contain federal questions are seldom representative of the public opinion or the public's desired outcome (Segal 89). This model was established by Gledon Schubert when he decided to use psychology in order to create the attitudinal model. Gledon wanted to find a way to scale the justice's ideology in terms of their values and the cases

presented in front of them (Segal 88). The study focuses on the fact that the Supreme Court controls their own docket and no case is presented in front of them unless they choose to have it be presented in front of them (Segal 88). Justices are believed to pick cases that most align with their ideological beliefs and refuse ones they see as meritless cases (Segal 88). An example of this model is if Justice Gorsuch votes on a case, we would expect him to vote conservatively due to his extremely conservative beliefs. In terms of this paper, the attitudinal model could be an accurate predictor of Supreme Court decision making and it would further explain the lack of effect of an attorney's oral arguments.

The second model, the legal/professional model of decision-making, argues that judges use facts and law in order to decide the outcome of the case. In this sense, "judge's decision-making process is shaped by their legal training, which includes traditional principles of logic, constitutional and statutory interpretation of the law" (Seamon 550). This model states that justices are coming to their decisions based on the facts of the case, on precedent, plain meaning of the Constitution and the intent of the Framers (Segal 86). The legal/professional model has not been studied to a deeper extent due to the criticism that this model has received. An issue with this model is that it uses the fact that litigants/attorneys have precedent when arguing a case, but justices also rely on precedent in their decision making (Segal 86). This model is not a helpful measure of how the justices are coming to their decision because it references an overlap between the attorney's argument and the justices both using legal precedent.

The last model in terms of judicial decision-making is the rational choice model. Rational choice is weighing cost and benefits against one another to determine what is better for the people, as well as the society. This looks at decisions in a way that derives mathematical and/or logical deductions (Segal 110). The goal for this model is to find the equilibrium of an outcome, meaning that the justices find a decision that is at the maximum point of equally pleasing society, as well as individual citizens (Segal 110). This model can be divided into two groups of scholars: those that have become known as internal camp and those known as the external camp. The internal camp "focuses on the interactions among the justices" (Segal 111). The external camp "focuses on constraints imposed on the Court by other political actors" (Segal 111). Some criticisms of this theory is that this type of decision-making cannot be directly observed, it is just merely assumed that a justice would feel unethical from choosing an outcome that would negatively affect our society (Segal 112). Furthermore, the rational choice model has not derived any actual equilibrium solutions and justices do not always choose what is best for our society (Segal 112). Due to the lack of research we have on this model, it is hard to determine if the rational choice model actually explains justices' decision making.

In terms of these three models, we begin to see a basis of what could potentially be impacting a justice's decision-making when it comes to voting on any given case. However, there are definitely other factors that might potentially influence Supreme Court justices in how they make decisions.

2.2 Other Factors that Influences the Court

The Supreme Court can be influenced by a number of different factors including public influences, amicus curie briefs, and arguments from the solicitor general. These influences must be examined because if these play a viable role in helping a justice come to their decision, then it makes it more likely that an attorney will not have any type of effect on the ultimate decision of the justice.

In regard to the public influences, or public opinion, we can see that some scholars argue that public opinion has a strong indirect effect on the Supreme Court justices. Public opinion plays an influence on what cases the Supreme Court chooses to hear and what the court decides to rule on such cases (Mishler 167). Supreme Court justices are not accountable for their rulings, giving the justices freedom to fluctuate between decisions on similar cases (Mishler 174). The Supreme Court's fluctuations coincide with the rapid

shift in public opinion (Mishler 175). Therefore, there is evidence that suggests the justices are not being influenced by an attorney's oral arguments, but rather the changes in public opinion.

Boucher disagrees with this view. Boucher argues that justices are not "strategic policy-minded decision makers" (826). In certain cases, justices consider their outside environment, public opinion, etc. as a means for deciding case outcomes but that seldom occurs. Most of the time, justices are reliant on their already held beliefs or the idea of being nonstrategic (Boucher 826). This idea of being nonstrategic indicates that some justices are more likely to side with the lower courts, as oppose to the individual seeking an appeal (Boucher 829), showing a disregard of public opinion.

Amicus curiae briefs can also be explored as having an effect. Justice Scalia views amicus curie briefs as a representation of the public's opinion and the outcome the public prefers. Amicus curiae briefs can be written by someone in the legal profession or by a citizen and sent to the court. According to a few sources, the effectiveness of amicus briefs are very limited (Nicholson 23). Kearne states that amicus briefs were very rare in the early centuries of the Supreme Court but that today oral arguments by attorneys have been shortened and amicus briefs have become more common (743). This literature therefore argues that the shortening of an attorney's oral arguments did not have an effect on the Supreme Court, but that the greater amount of amicus briefs being submitted did (Kearne 745). Research states that an amicus curie brief, "presents an argument or cites authorities not found in the briefs of the parties, and these materials can occasionally play a critical role in the Court's rationale for a decision" (Kearne 757). Yet, this is not an accepted fact. Certain justices have spoken out about this; for example, Chief Judge Richard Posner believes that amicus curie briefs have little to no effect on the justice's choice or outcome. According to Shapiro, the clerks in the Supreme Court offices agreed that many amicus curiae briefs are a waste of time and money (22). The Court receives hundreds of amicus briefs every day and most do not contain useful information. More often than not, these briefs either talk about issues far removed from the court, or they file a one-page brief that contains limited useful information to the court (Shapiro 22). It is also argued that state attorney generals are frequent filers of amicus briefs, yet they still have a limited effect as Supreme Court justices rarely view these briefs and do not include them in their arguments (Nicholson 23).

In terms of other forms of effectiveness, "the Solicitor General, is the most successful advocate to appear before the Court; in fact, the Solicitor General's office wins well over 70 percent of the cases in which the government participates" (Wahlbeck 104). Therefore, an attorney might not have as much of an effect as we believe, since the Solicitor General accounts for most of the success in these Supreme Court cases.

On top of all this, literature suggests that justices might not be influenced by any one individual. Rather, it is argued that the justices are only relying on the Constitution to make their decisions; not any outside forces (Mason 1387). But is this accurate? According to existing literature, it has been determined that the effect of amicus curiae briefs can be put aside (McGuire 188). Yet, before we assume the justices are not being influenced by a single person, we need to look at the impact attorneys have.

2.3 The Effectiveness of Attorneys on Partisan Issues

The main focus of this paper is on the effect of an attorney before the Courts, specifically the oral argument that the attorney presents to the Court. This section seeks to extract information from existing literature to demonstrate that an attorney is having an effect on the Supreme Court justice's opinions.

Some literature suggests that an attorney's oral argument does have an effect on the Supreme Court justices, however this effect differs in significance. A justice's position fluctuates constantly throughout the process of a case before they cast their final vote and therefore the vote can be influenced by an exogenous force (Ringsmuth 433). Oral arguments can play a role in case outcome for several reasons. First, oral

arguments can assist justices in understanding complex legal or factual issues (Wahlbeck 99). Written briefs or decisions filed in the lower courts can be confusing at times. Therefore, an attorney's oral argument can help clear that confusion and provide a better analysis of the case (Wahlbeck 99). According to Wahlbeck, "justices often face uncertainty, and they need information about a case and the law in order to set policy in ways that will promote the Justice's goals" (100). Justice Brennan has said that, "often my idea of how a case shapes up is changed by an oral argument." Justices therefore do not always have their minds decided when they are presented with oral arguments; oral arguments are needed in order to demonstrate new information that a justice was not aware of before (Wahlbeck 100). Based off of McAtee's analysis, we can assume that the more a justice lacks knowledge on an issue, the greater the justice will be able to be persuaded and affected by the attorney's argument (271). Oral arguments do serve a purpose in the Supreme Court as "they provide justices a unique venue from which to seek novel information and then for justices to use that information to inform their conclusion" (McAtee 271). The arguments that are presented to the Supreme Court usually sway justices into moving to side with the majority opinion but a bad oral argument can help push a justice to a certain direction as well (Ringsmuth 436).

There are some key factors however that make an oral argument have a greater effect. For example, how an attorney presents their position during their oral argument is key to the outcome they receive from the justices (Wahlbeck 107). Furthermore, an attorney's credibility is said to affect the attorney's performance in front of the justices. According to Wahlbeck, "in the context of the Supreme Court, a key indicator of credibility is the litigating experience of a lawyer, especially the extent to which he or she has appeared before the Court in the past" (107). An attorney's credibility can also be influenced by their educational experience as an attorney who went to a top law school is more likely to receive "respect" from the justices and therefore have a greater impact (Wahlbeck 109). Therefore, the more credibility an attorney has the more likely they are to have a stronger effect on the justices.

Some attorneys try to take a different route and instead of using credibility and the facts of the case, they use rhetoric and wisdom in order to draw the justice's attention and persuade them through their oral arguments (McAtee 259). Attorneys understand that Supreme Court justices need a variety of information in determining which way to vote. At the same time however, using wisdom does not mean that an attorney is securing a justice's vote, but rather they are creating a way for the justice to understand this issue in a different light (McAtee 262).

In another view of attorney effectiveness, McGuire argues that "the justices are ultimately concerned with uniformity in federal law, the ramifications of their decisions for public policy" but "in the dialogue over such issues it is lawyers who help give them voice" (189). The purpose of oral arguments is for justices to be able to learn about facts that they do not know. Most of the time, justices have a deep understanding of the law being used, but not as much is known about the facts (Jackson 802). The way these facts are presented determine if an attorney will have a greater impact on the ruling.

Specifically looking at cases dealing with partisan issues, we see that scholars take different views on the subject. If a justice's ideology was taken into account, then we would see an attorney's oral arguments only plays a small role; that impact would be mainly from the attorney's previous experience in the court and based off merit (Wahlbeck 106). Literature has shown that when a justice is supportive of an issue that aligns with their ideology, it is possible for them to be influenced by an attorney's oral argument (Wahlbeck 107). If the attorney provides a higher quality oral argument than their opposing side, then there is an increased probability that that attorney could sway a justice's vote (Wahlbeck 107). In this sense, an attorney would have an effect, even though the cases may be partisanly divided.

Looking at all the literature presented above, an attorney would have the potential to change various

case outcomes in the Supreme Court through their oral argumentation.

2.4 The Ineffectiveness of Attorneys on Partisan Issues

Literature has conversely argued that attorneys do not have an effect on a Supreme Court case outcome. We have seen throughout time that changes have occurred in the Supreme Court and one of those changes is the shortening of the amount of time an attorney gets for an oral argument. Scholars have assessed this and found that this does not have a dramatic effect on the outcome of a case (Kearney 746).

Scholars believe that lawyers do not have an effect because in order for an attorney to be effective, they must possess specific qualities. For example, lawyers must be able to argue cases off memory, avoiding nervousness or stumbling upon their sentences (Jackson 801). This is difficult to accomplish with the justices constantly asking questions that the attorney may not have anticipated and thus the attorney may not be able to play a significant role in deciding the outcome of the case. Attorneys also complain about the line of questioning they receive from the justices (Jackson 801). All this combined reinforces the ineffectiveness of attorneys in the Supreme Court.

Justices also select what cases they want to hear and therefore tentative opinions or inquiries about how they feel about the case will present themselves before an oral argument has taken place (Jackson 801). Most of the time, the justices stick with their original instinct, meaning that the attorney does not hold any persuasive power over the decision (Jackson 801). The justice can however, use the language in the oral argument to formulate their written opinions.

Justices do not give lawyers a lot of time to argue and the fact that lawyers are not given enough time is a representation of "justices growing disdain for oral arguments" (Wrightsman 14). Some justices no longer find these oral arguments useful but rather they see them as an unnecessary step in the Supreme Court proceedings (Wolfson 452). Wolfson did a test and found that about 0-20% of the time, oral arguments can influence a justice to change their mind (452). The problem is that this change occurs on a performance base, and not so much on the basis of the argument itself (Wolfson 452). For example, "oral arguments performed effectively are of crucial significance—that they positively contribute to the decision-making process" (Mosk 62). Wikstorm agrees, believing that lawyers are underfunded (360). It is argued further that lawyers are therefore ineffective and cannot satisfy what is expected of them in the Supreme Court level (Wikstorm 360).

Valerie Hoekstra argues that the Supreme Court is focused on lower court decisions rather than what the attorney says in their oral argument (320). The Supreme Court makes an opinion before the oral argument even occurs, as they are given all the facts and legal issues beforehand (Hoekstra 321). Most of the time, the lower court is concerned about being overturned by the Supreme Court (Hoekstra 321). Some courts try to write very detailed records, where they try to include all necessary arguments for the Supreme Court (Hoekstra 321). By doing this, the Supreme Court is able to use these written arguments to come to a decision before hearing an attorney's oral argument, thereby making them ineffective (Hoekstra 321). According to Lucas, counsel is extremely ineffective in the Supreme Court (220). It was found that attorneys are not able to anticipate what is going to be asked of them, their nervousness kicks in, and they are unable to grab the justice's attention (Lucas 220). Furthermore, the attorneys who get sent up to the Supreme Court are supposed to be some of the best attorneys. Our standard of an attorney is extremely low because we expect attorneys to use notes and to not be as prepared as they should be (Lucas 221). But because our expectation of attorneys is so low, the attorneys before the Supreme Court are not as good as they should be (Lucas 221).

The way an attorney presents their oral arguments is frequently attacked. Frost found that "the justices today are more likely to speak harshly, as well as make more jokes than they did in the past, and the justices are

better prepared in terms of questioning the oral arguments" (1). Furthermore, justices indicate in their questions what side they stand on and whether or not they disagree with the majority and this shows that the justices have already formulated an opinion on the case before even hearing the attorney's oral argument (Frost 1). This further supports the idea that the attorney does not have an impact. It is also argued that "oral arguments are less about addressing the legal merits and more about feeding DC journalists' needs for sound bites and quotes for their daily articles" (Frost 1).

In terms of partisan issues, it has to be admitted that even when a justice bases their decision on their ideology or their preference for a policy, they often do so while taking in other information to support their beliefs (McAtee 260). The literature in this sense shows that an attorney has a very minimal to no effect on the justices (George 323). A justice also determines what side they will most likely be on based on what decision most closely aligns with their ideological beliefs. This is, more often than not, decided before any evidence is heard (McAtee 279). In this sense, an attorney would lack effectiveness, particularly in partisan issues. Examining the literature in this section, we see a different view. The literature indicates that an attorney has limited to no effect in influencing the Supreme Court case outcomes.

In conclusion, there are many potential impacts on the Supreme Court's decision making, as well as different reasons as to why an attorney can be effective or ineffective in impacting a justice's decision on a case. Partisan issues also come into play here because we have seen that when justices decide their own docket, they do so based upon their ideological beliefs. Through this study, we hope to find that the attitudinal model is widely used in justice decision-making and that when a partisan case is placed in front of the Supreme Court, attorneys will have minimal to no effect on the outcome.

3. Methodology

This thesis uses a quantitative research design to determine whether or not an attorney's oral argument has an effect on Supreme Court decision-making. Specifically, this study utilizes a content analysis. A content analysis is the process of collecting quantitative data derived from a written source or text. This content analysis uses oral arguments and the written decisions of the Court as the written source or text. This methodology, however, is not able to account for everything the justices review in coming to a decision. Despite that, it does adequately assess an attorney's effectiveness before the Supreme Court. In order to conduct this analysis, several variables had to be accounted for and these variables will be discussed below.

This study examined one hundred Supreme Court cases that took place between 2006-2016. These cases were selected on the basis of which attorneys had most frequently argued in front of the Supreme Court. It has been noted in the literature review that attorneys who argue frequently in front of the Court have more credibility and more experience. These attorneys are thought to have the most effect in the Supreme Court. Knowing this, I collected cases from the three attorneys that have most frequently appeared in the Supreme Court during the 21st century. The three attorneys I looked at were: Paul D. Clement, Edwin S. Kneedler, and Michael R. Dreeben. Ultimately, the analysis includes 47 cases argued by Clement, 35 by Kneedler, and 16 by Dreben.

The 100 cases were then coded on a variety of different dimensions. The analysis first explores how the justices had voted on a specific case. The justice's votes are separated into several variables: ConservativeYES (how many conservative justices voted in favor of the decision), ConservativeNO (how many conservative justices voted against the decision), ConservativeTOTAL (the total number of conservative justices on the Court at that point in time). Similarly, the analysis codes the same information for the liberal justices of the court through the variables LiberalYES,

LiberalNO, and LiberalTOTAL. The ideology of the justice was determined from the classification developed on a webpage called "InsideGov" and the way they voted was accounted for by looking at the case on "OYEZ."

The next variable collected examines what side the Court had favored in each individual case. In each case, the Supreme Court could side with either the appellant/respondent or appellee/petitioner. For this variable, a "1" was assigned to the appellee and a "0" was assigned to the appellant. This variable was coded in order to aid in coding the polarization of the issue.

The next group of variables collected in the data set were the similarities between the oral argumentation given by the attorneys and the opinions written by the Court. This variable is relevant in the analysis of this thesis, because the more ideas a justice's ends up adopting from an oral argument, the more effect an attorney will have. The data for this variable is divided into three sections: the similarity between the oral argument and the majority opinion, the similarity between the oral argument and the concurring opinion(s), and the similarity between the oral arguments and the dissenting opinion(s). This data was collected by running a similarity test on the oral argument and each individual opinion, using a website known as "copyleaks.com." This comparison produced two numbers, the percentage of text copied, and how many chunks of text appeared to be similar. These were coded as MajorityWord and MajorityPercent, ConcurringWord and ConcurringPercent, and DissentingWord and DissentingPercent. Again, this variable is designed this way because if the attorney had an effect on the Court then that effect should be evident in the similarity between the oral argument and opinion. Therefore, if these three attorneys are indeed successful in the manner we believe them to be, the attorney's argument should show up in the Court's opinions more frequently than not.

The fourth set of variables collected for this study involves the questions that the Supreme Court justices asked the attorneys while they were presenting their oral arguments. The questions were specifically coded to determine how many questions had an implied answer. A question with an implied answer has a truth value already in the question. Usually, the person asking a question with an implied answer already has a defined perspective on the issue at hand. Therefore, no matter what the attorney responds, the justice would already have a defined point of view on the issue. These questions involve questions that end in "isn't that right?" or "you would agree with me when I say…" Again, the idea behind recording the frequency in which these questions appear is that if the attorney is consistently asked questions of this nature, then their effect is likely to be low. This is because the justices would already have a developed opinion on the issue being presented. In this light, we expect that cases that are partisanly divided would have a higher number of implied questions. This data was coded as the following variables: AppellantQuestions (the total number of questions that were asked the appellant attorney), AppellantImplied (the number of implied questions asked to the appellant attorney), AppellantNotImplied (the number of questions asked that did not have an implied answer to the appellant attorney), AppelleeQuestions, AppelleeImplied, AppelleeNotImplied. This data was collected by looking at transcripts of the oral arguments online and assessing how justices responded to both the appellee and appellant. I did a search to find every single question asked by the justices during both attorneys' argument. Once I had a complete list of the questions asked during the argument, I read through each question and determined if the question seemed to have an implied answer or not. This variable is slightly subjective, as I tried to use my rational based opinion in selecting what was considered implied and not, but there is no set standard for how to determine something of that nature.

The fifth and final variable I collected is the IssuePerspective. This variable codes what ideological side the majority of the Court was more likely to lean towards. For example, one issue presented in front of the Court, in *District of Columbia v. Heller*, was if

being required to have only non-functional guns in your home is a violation of the 2nd amendment.

Now this case seems to have an issue that if you vote 'yes' this is a violation of the 2nd amendment. This would be a perspective that many conservatives might hold, therefore it would be classified as a conservative issue. The way the data is coded, a liberal issue receives a '0', a non-partisan issue receives a '1', and a conservative issue receives a '2'. An example of a non-partisan issue includes issues that the majority did not share ideological consistency on, such as attorney fees or if a case fell under the correct law when it was argued in the lower courts. This test is also slightly subjective, as I used existing knowledge on the two party's beliefs, as well as the two party's platforms that I found online. However, there is a possibility for disagreement on certain issues.

The measurement of an attorney's effectiveness in the Supreme Court is extremely hard to measure. In order to gain accurate results, the data tried to account for the main factors that would demonstrate an attorney's effectiveness. While this study does not take into account every possible thing that the Court may consider, it still takes many variables into consideration. These variables and their influences are discussed in the results section below.

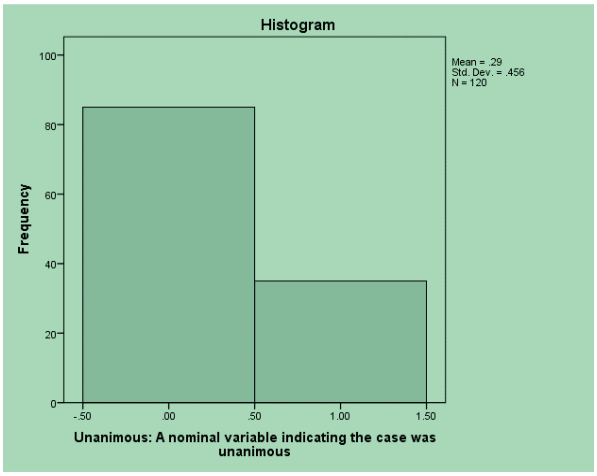
4. Results

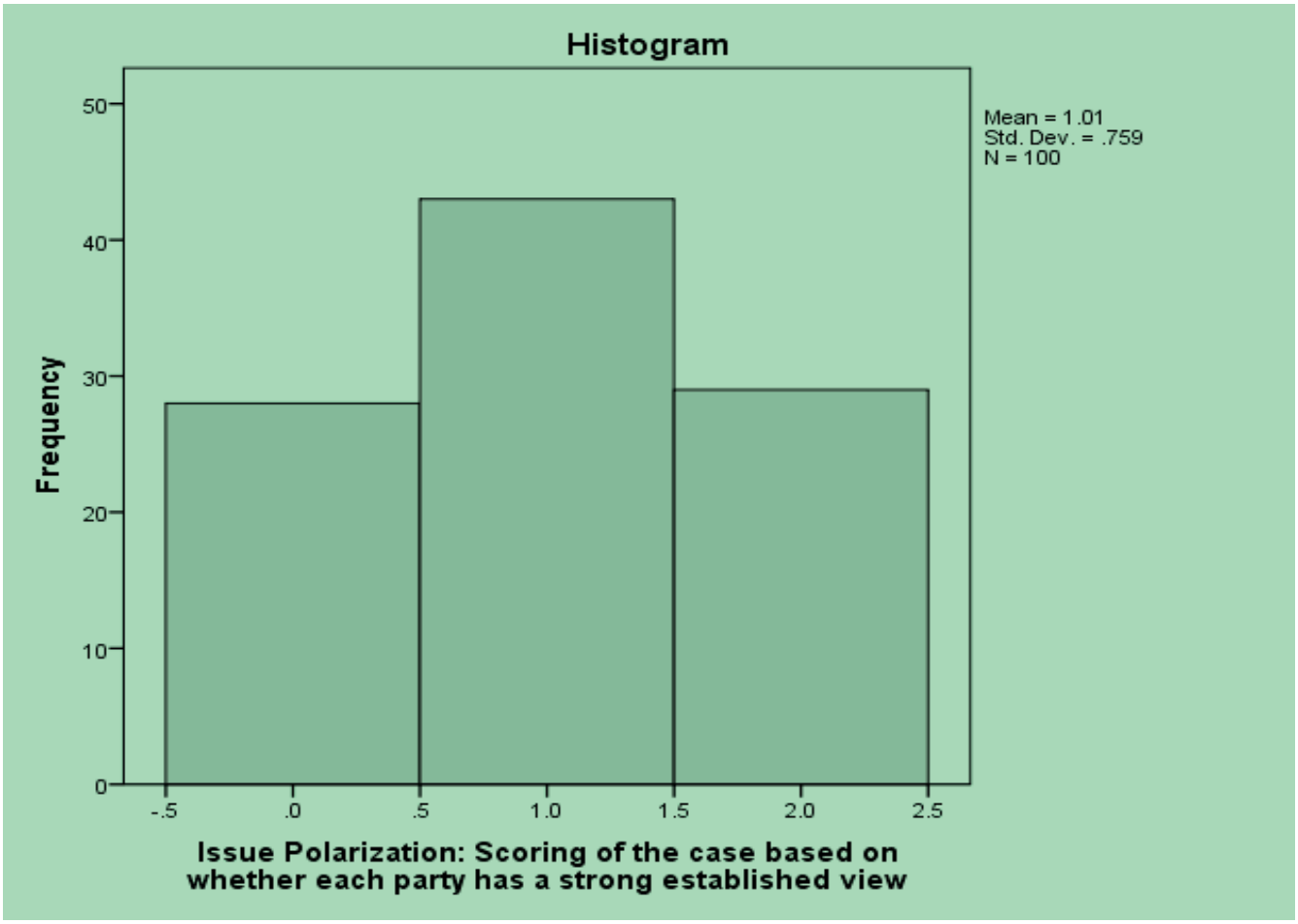
This section supports the argument posed in this paper, which is, that an attorney will not have an effect on Supreme Court decision-making when the issue is partisanly divided. In order to see if this argument has standing, I ran several tests on the variables collected in my data set. One of my most important variables used was issue polarization. Issue polarization when tested against another variable allows us to determine whether or not that variable is being influenced by the partisan divides of a case. The results were broken down by first looking at characteristics about individual variables. The first issue I wanted to examine was how the justices were voting on any given case. I decided to run a one-way ANOVA between issue polarization and the way the justices were voting. The second test that I ran was a chi-square test between issue polarization and whether or not the case yielded a unanimous decision. The last test that I ran that examined the justices votes was a chi-square test between issue polarization and what side the justices favored, whether it be the appellant or appellee attorney. The next issue I wanted to tackle was the attorney's role in effecting the justices. In order to do this, I ran a one-way ANOVA between issue polarization and the percentages/words that appeared to be copied between the oral argumentation and Court opinions. The last variable I looked at was the questions that were being asked of the attorney during the oral argumentation. The charts and graphs I created are referenced and explored deeper below.

Chart 1.1: Issue Polarization Frequency Table

	Frequency	Percent
Liberal	28	28%
Neutral	43	43%
Conservative	29	29%
Total	100	100%

Graph 1.1: Histogram of Issue Polarization





Issue polarization is the variable that I used in all of my tests. I first wanted to see how many cases out of the hundred that I found were either a liberal, neutral or conservative issue. Above, in chart 1.1, we can see a frequency table which depicts the number/percentage of cases that were either liberal or neutral or conservative. Looking at this frequency table, we can see that most of the cases that were collected were neutral or non-partisan cases. Specifically, 43% of cases in my complete data set were neutral, while only 28% were liberal and 29% were conservative cases. I also created a histogram to better illustrate these findings.

This histogram represents the amount of cases that were liberal, the amount that were neutral/non-partisan and the amount of cases that were conservative. Looking at this histogram, we can see the same finding as above. Most of the cases that were selected were classified as neutral/non-partisan case, while there were less liberal and conservative cases picked. The importance behind this histogram is that if an attorney is having a limited effect, then we should expect to see the liberal and conservative cases result in split

decisions while the neutral cases result in unanimous decisions.

Chart 1.2: Unanimous v. Split Decision Frequency Table

	Frequency	Percent
Split Decision	71	71%
Unanimous Decision	29	29%
Total	100	100%

Before going into specific tests, I also wanted to look at how many of the cases I looked at had a spilt decision versus a unanimous decision. If the cases are likely to be influenced by the justices already held political beliefs, then we should expect to see less split decisions because a majority of the cases collected were neutral cases. Looking at chart 1.2, we can actually see that most decisions are split decisions. Specifically, 70.8% of the cases that I used in my data set were split decisions, while 29.2% were unanimous decisions. We could once again look at a histogram for a better understanding.

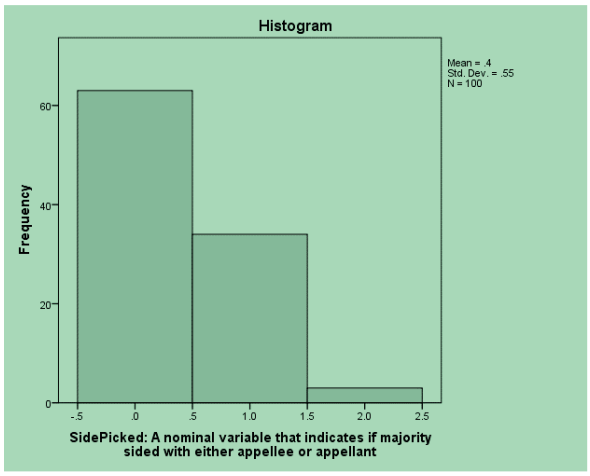
Graph 1.2: Histogram of whether or not decision was unanimous

Above right we can see a histogram of whether or not the decision was unanimous or split in a case. We can see similar findings to those listed above, that is, that we are more likely to run into a case that is a split decision as oppose to a case that is unanimous. This is very interesting considering a lot of our cases were non-partisan. This histogram could indicate that the justices might be voting based on another influence and not just their political identifications.

Chart 1.3: Side Picked Frequency Table

	Frequency	Percent
Appellant	63	63%
Appellee	34	34%
Per Curiam	3	3%
Total	100	100%

Above we can see a frequency table which depicts the amount of cases that the justices had voted for either the appellant or appellee attorney. Some cases however were per curiam opinions which means that no justice signed the opinion and the opinion was made by the court. No side is specified in these opinions. Looking at chart 1.3, we can see that 63% of the cases were in favor of the appellant attorney, therefore over half the cases that were decided were decided for a specific side. Also, we can see that 34% of the cases were in favor of the appellee attorney while only 3% of the cases were per curiam opinions. The importance behind this is to see if any side is more partisan than the other side as well as to see if a specific attorney is having more of an influence. This can once again be demonstrated more visually in a histogram graph.



Graph 1.3: Histogram of Side Picked

Looking above right, we can see a histogram of the side that was picked by the justices in each case they heard. This histogram is just a demonstration of the frequency table that was depicted above. It shows, once again, that most of the decisions made by the courts were in favor of the appellant attorney, while not as many were made in favor of the appellee.

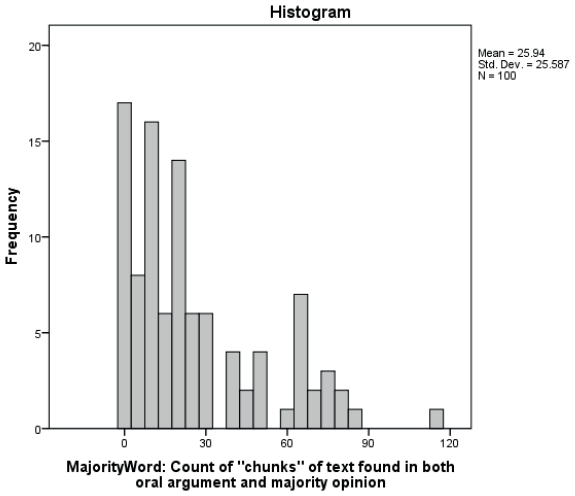
Chart 1.4: Descriptive Statistics of Argument v. Opinion

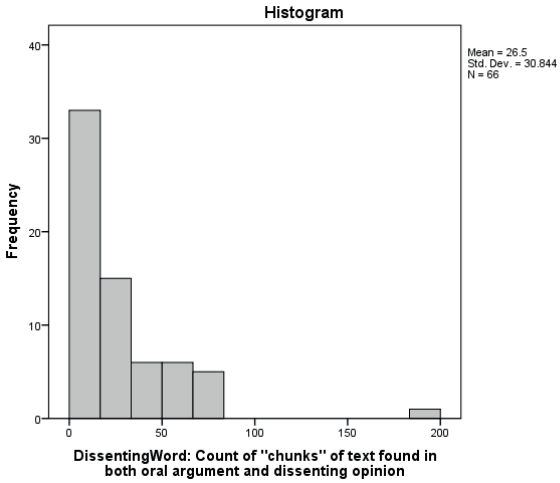
	Majority Word	**Majority Percent**	**Concurring Word**	**Concurring Percent**	**Dissenting Word**	**Dissenting Percent**
Mean	25.94	.241	11.20	.088	26.50	.279
Median	18.00	.100	7.00	.000	16.00	.100
Std. Deviation	25.587	.3118	15.551	.2669	30.844	.5509
Range	117	1.0	98	2.0	195	4.0

Next, we can look at characteristics of the variables where an attorney's oral argumentation was deeply examined. First, we can look at a descriptive statistics of how much of the attorneys oral argument was used in the majority, concurring and dissenting opinions. In chart 1.4 we can see a standard descriptive statistics table, which accounts for several variables. These variables include the words that were the same between the oral argument and opinion, as well as the percentage of text that was copied. This table, indicates the mean, median, standard deviation and the range for all of these variables. Looking first at the amount of the oral

argument that was used in the majority opinion, we can see that the mean for the amount a text that was copied is 25.94. This means that the average amount of text being copied is about 26 chunks of text. Looking at the percentage for the majority opinion as well, we can see that the mean is .241, meaning that the average percent is only .241% of copied text between the two documents. Next, we can looking at how much of the oral argumentation matched with the concurring opinion. One thing to note is that the concurring and dissenting opinions are missing some numbers because there are times where the justices do not concur, or times where there is no dissenting opinion, such as in the case of a unanimous decision. When looking at the concurring opinion, we can see through the mean that the average number of words being copied is 11.20 words, while the percentage is .088%. This is interesting because these numbers are much lower than that recorded by the majority opinion. I assume that the reason for the decline in the amount of similarities between the oral argument and concurring opinion is due to the fact that justices write a concurring opinion because they agree with the majority vote but have a different reason for agreeing. I assume that this different reason, is based upon something the justice had previously encountered and knew, and was therefore not as affected by the attorney's oral argumentation. The last thing to note is the dissenting opinion. We can see in chart 1.6 that the average amount of chunks of text that were copied were 26.50. The percent that was copied was .279. This is more expected as the dissenting opinion has similar numbers to the majority opinion. The spread in all these variables can better be illustrated using graphs.

Graph 1.4: Histogram of Majority Word





The graph above shows the distribution of the amount of text that was copied between the oral argumentation and the majority opinion. Specifically, it looks at word and not the percentage count. Looking at this graph, we can see that the cases are concentrated between 0-30 chunks of text copied. We can also see that there is an outlier that is close to 120 words copied.

Graph 1.5: Histogram of Dissenting Word

This histogram graph above is similar to graph 1.4, but this is taking the dissenting opinion into account instead of the majority. Looking at chart 1.8 we can see a completely different distribution, with almost all of the cases concentrated from zero to 70 words. We can also see the outlier that exists here as well, this one is almost up to 200 words being the same between the opinion and the attorney's argumentation.

Chart 1.5: Descriptive Statistics of Questions Asked to Attorney

	Appellant Question:	Appellant Implied	Appellant Not Implied	Appellee Question:	Appellee Implied	Appellee Not Implied
Mean	39.96	8.960	31.00	38.83	7.65	31.38
Median	36.00	8.000	28.00	37.00	7.00	29.00
Std. Deviation	18.797	5.7681	15.220	21.713	6.061	16.803
Range	128	46.0	88	207	55	153

Above we can see a standard descriptive statistic that shows the mean, median, standard deviation, and range of the questions that were asked to both the appellant and appellee attorneys. First, looking at the appellant attorneys we can determine that the average number of questions the appellant attorney is asked is 39.96, or 40, if we round it. Out of those 40, the average number of implied questions that the appellant attorney is asked is 8.96, or 9 questions. Looking at the average number of not implied questions that the appellant attorney is asked, we can see that that number is 31. Next, we can look at the total number of questions that are asked to the appellee attorney. Based upon the mean, we can determine that the total number of questions the appellee attorney is asked are 38.83, or 39. Out of those 39 questions, on average 7.65 of them are questions that have an implied answer and are being asked to the appellee attorney. In terms of the average of not implied questions, we can see that there were 31.38 questions. This is interesting because if the justices are voting on party lines then we should expect to see more implied questions being asked of the attorney.

Chart 1.6: One-way ANOVA between issue polarization and justice votes

	F-Value	Significance
The number of conservative justices who voted YES	11.390	.000
The number of conservative justices who voted NO	13.087	.000
The number of liberal justices who voted YES	40.122	.000
The number of liberal justices who voted NO	41.144	.000

When I started comparing variables, I first conducted a one-way ANOVA between issue polarization and the way that the justices are voting. The purpose of this, was that if the justices are voting on their party lines, then we should expect to see a significance between the way they vote and the polarization of the case that is being heard before the Courts. In conducting this ANOVA, we can see that in chart 1.6, there is a significance between all of the variables. If we look at chart 1.6, then we can note that the significance value for all these variables is .000. This indicates that there is a 0% probability that this relationship is due to chance. Since the significance value is lower than .05, we are able to say that there is a significance that exists between these two variables. Meaning there is a significance between ConservativeYES, ConservativeNO, LiberalYES and LiberalNo, when put against the issue polarization in each case.

Chart 1.7: Chi-square between Issue Polarization and Unanimous Variable

	Value	Asymptotic Significance (2-sided)
Pearson Chi-Square	10.687	.005

The next test that was conducted was a Chi-Square test. This test is used to measure two nominal or ordinal variables. In this case, we are comparing issue polarization and whether or not an issue will yield a unanimous vote or not. The idea behind this test is that if the justices are likely to vote on party lines, then we should expect to see that most polarized issues are split decisions, whereas most neutral or non-polarized issues are unanimous decisions. The first thing I did was run a chi-square test. Looking at chart 1.7, we can see that the value yielded by this test indicated that the significance value was .005. This means that there was a .5% probability that this relationship was due to chance. Therefore, there was a significance between issue polarization and whether or not the decision was unanimous or not.

Chart 1.8: Cross Tabulation of Issue Polarization and Unanimous Variable

	Liberal	Neutral	Conservative
Split-decision	18 (25.7%)	25 (35.7%)	27 (38.6%)
Unanimous decision	10 (33.3%)	18 (60%)	2 (6.7%)

The next thing I did was create a cross tabulation to actually see how many cases fell into each category: liberal, neutral, and conservative, when analyzed with whether or not the decision was split. Looking at the chart up above, we can see that most split decisions are likely to be conservative. The chart indicates that 38.6% of split decisions are conservative issues. In terms of unanimous decisions, we can see that 60% of unanimous cases are likely to be a neutral or non-partisan issue. This chart is important because it makes it more likely that justices are voting on party lines since the split decision are polarized issues, whereas the unanimous are likely to be non-polarized.

Chart 1.9: Chi-square between Issue Polarization and Side Picked

	Value	Asymptotic Significance (2-Sided)
Pearson Chi-Square	7.349	.119

I wanted to look at whether or not the side that the attorney voted for was changed at all by the polarization of the case. In order to do this, I ran a chi-square test between issue polarization and the side that was picked. As we can see in chart 3.1, the asymptotic significance is .119. This means that there is an 11.9% probability that this relationship is due to chance. This is enough for us to conclude that there is no significance between issue polarization and the side picked.

Chart 2: One-way ANOVA between Issue Polarization and Word similarities in Opinions

	F-Value	Significance
Majority Word	.453	.637
Concurring Word	1.629	.205
Dissenting Word	.327	.722

After running those two tests, I started looking at the variables that were meant to show whether or not an attorney had an impact on Supreme Court decision-making. The first variable that I looked at was the comparison between the opinions made by the Courts in terms of word count. The idea behind this test was that if an attorney is not going to have an influence then we should expect to see that less of an attorney's oral argumentation is used in the Court's opinion, especially when the case is polarized. Looking at chart 4, we can see that there is no significance between the MajorityWord, ConcurringWord and DissentingWord, when looking at it against issue polarization.

Chart 2.1: One- way ANOVA with Issue Polarization and percent similarities in Opinions

	F-Value	Significance
Majority Percent	.469	.627
Concurring Percent	1.335	.271
Dissenting Percent	.443	.644

When collecting my data, I noticed there was a big difference between the percentages of texts being copied versus the word count. Due to this factor, I wanted to also run a test between the percentages and the issue polarization of the cases. I ran a one-way ANOVA which indicated similar findings as above. If we look at chart 2.1 we can see that none of these values are significant. In terms of the Majority Percent, we can see that the significance value is .627. This means that there is a 62.7% probability that the relationship between the majority percent and issue polarization is due to chance. This is an extremely high percentage and therefore, we can conclude that this relationship is not significant. Similarly, we can see a reoccurring trend with the other values. In terms of Concurring Percent, we see a significance value of .271. While this number is substantially lower than the one above, it is still not within our .05 threshold of being significant. Lastly, looking at the significance value between the Dissenting Percent and the issue polarization we can see that this value is .644, thereby demonstrating that a significance does not exist here either. This goes to show that there is no significance between the amounts of text being copied from the oral argument to the opinion when placed against issue polarization.

Chart 2.2: One-way ANOVA between Issue Polarization and Appellee Not Implied

	F-Value	Significance
Questions that were asked to the appellee that were NOT implied	1.019	.464

The next set of variables I examined, were the questions that were being asked of the attorneys. In chart 2.2, we see a one-way ANOVA between the questions that were asked to the appellee attorney that were not implied versus issue polarization. Looking at the significance value here we can see that there is a 46.4% that this probability is due to chance. Based upon this, we can say there is no significance. Issue polarization does not have an effect on the amount of questions that are not implied and asked to the appellee attorney.

Chart 2.3: One-way ANOVA between Issue Polarization and Appellee Implied

	F-Value	Significance
Questions that were asked to the appellee that were implied	1.033	.434

The next variable is the questions that were asked to the appellee attorney that were implied questions. Looking at chart 2.3, we can see that we have a significance value of .434, this once again demonstrates that no significance exists between these two variables. There is a 43.4% probability that this relationship is due to chance. Due to this high probability, we must then conclude that there is no significance between issue polarization and the amount of implied questions that the appellee attorney is being asked.

Chart 2.4: One-way ANOVA between Issue Polarization and Appellant Implied

	F-Value	Significance
Questions that were asked to the appellant that were implied	.875	.634

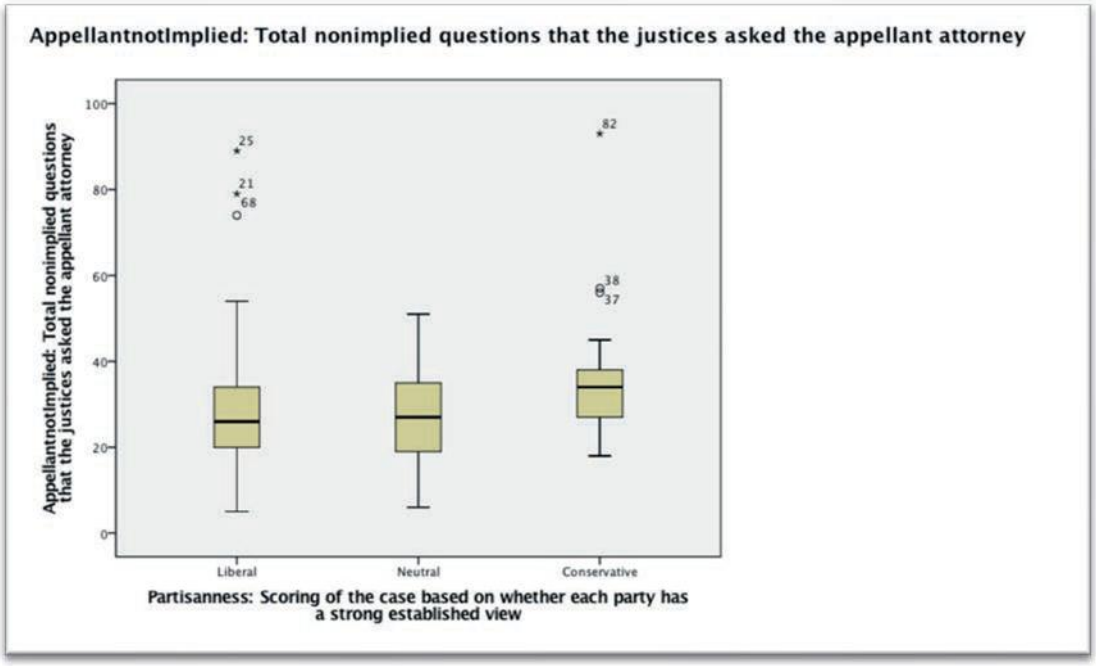
Next, I looked at the questions that were asked to the appellant attorney. The first one-way ANOVA I ran was between issue polarization and the total amount of questions that the appellant attorney was being asked that were implied. Looking at chart 8, we can see that the significance value is .634. Therefore, there is no significance here either meaning that issue polarization does not affect the amount of implied questions that are being asked of the appellant attorney.

Chart 2.5: One-way ANOVA between Issue Polarization and Appellant Not Implied

	F-Value	Significance
Questions that were asked to the appellant that were NOT implied	1.714	.029

The last variable that I looked at in terms of the questions being asked during the attorney's oral argumentation was the amount of not implied questions that were being asked of the appellant attorney. This was really interesting because if we look at the significance value then we can see that it is .029, it is lower than the .05 requirement and is therefore significant. There is a 2.9% probability that this relationship is due to chance. This means that issue polarization is affecting the amount of not implied questions asked of the appellant attorney. This was interesting considering it was the only type of question that issue polarization had an effect upon and I decided to investigate further.

Graph 1.6: Box Chart of Appellant Not Implied



I created a box chart that illustrates the relationship between issue polarization and the appellant not implied questions. The black lines on this chart which are not connected to the shaded area illustrate the distribution of the questions in each category, whether it be liberal, conservative or neutral. This means that the black line we see in the liberal section indicates that the lowest amount of not implied questions to the appellant attorney were around five questions, while the maximum amount were fifty-three questions, not including the outliers. The outliers are seen on this graph by the stars or circles that are located above the drawn distribution. These outliers might be one of the reasons that there is a significance between issue polarization and the total number of appellant not implied questions. Another thing that is indicated in this chart is the black lines located in the middle of the shaded in box. These lines indicate the averages of each category. If we look at chart 10 then we can see that the averages of each group is rising. The liberal cases have an average of less not implied questions, while the conservative cases have the most. This trend that shows an increase in questions based on the polarization of the issue is a clear indicator as to why there is a significance between issue polarization and questions that are asked to the appellant attorney that are not implied.

5. Conclusion

The results from my data analysis demonstrate that an attorney is likely not to have an effect in the Supreme Court, especially when the case is partisanly divided. This is the result of a lack of significance between issue polarization and the similarities of the oral argumentation versus the opinions by the Court. Since there is no significance in this respect, we can make the inference that an attorney is not having an effect on the Supreme Court. The other attorney influence that we expected to see was based upon the number of implied versus not implied questions that were asked to the attorney. In terms of these variables we noticed that only one of them was significant. Since only the appellant not implied questions held any significance, there is a strong likelihood that an attorney is still not having much of an impact on the justices. Due to the lack of significance between the other variables I think it is safe to assume an attorney's influence seems to be lacking in the Supreme Court with issues that are polarized.

The results did indicate, however, that there is a likelihood that justices are voting on party lines. When looking at how many liberal justices were voting yes or no for a case and how many conservative justices were doing the same, we saw that the issue polarization of the case had an effect on these variables. There was a significance between how the justices were voting and whether or not the case was polarized. From this we can assume that the justices are voting on their party lines. Furthermore, the results also indicated that there was a relationship between issue polarization and whether or not the decision would be split or unanimous. We saw that the split decisions were more likely to be conservative issues, while the unanimous decisions were more likely to be neutral or non-partisan issues. Through this, we can see another indicator of justices voting on their party lines. These results go to solidify the fact that there is some sort of bias that exists within the Supreme Court and that an attorney is not playing as much of a role as we would expect them to be.

The reason that an attorney may not be having as much of an effect as we would have expected could be due to our political climate. Our political climate shows that our political system and society is becoming more and more polarized. With this we see an increase in polarization in all of our institutions, including the Supreme Court. Due to the polarization occurring in the Supreme Court, we can say that an attorney may appear in the Supreme Court in order to aid the justice in understanding the factual issues of a case in front of them. An attorney's appearance may also be used as an image to the public, in order to convince the public that they have an impact in Supreme Court decision-making.

There are certain factors that can be adjusted in this thesis. For example, I noticed that there was a lack of words copied from the oral argumentation and the written opinions by the Court. I think that if someone

wanted to further explore this data then they should look at what part of the oral argumentation was copied and see if any of those similarities are significant chunks of the attorney's argument. If significant chunks are being copied, then there is a strong likelihood that attorneys could be having more of an impact than we are anticipating. Furthermore, I used a comparison tool to find the similarities between the argumentation and opinions written. If I had more time to work on this project then I would read the oral arguments and opinions and find the similarities myself. This is because the Court opinions might not be using the exact wording from the attorney's argumentation, rather using a similar idea. If there are in fact more similar ideas being used, then these ideas would be ignored through an online comparison.

Another recommendation would be to create a multi-method study because this can account for variables in a qualitative sense as well. This qualitative data would be helpful because it would require an analysis of separate cases, and through this we would be able to see if there are specific instances where an attorney could be playing a role. As part of the multi-method study, we should also talk to justices to find out what they are really thinking when examining cases. It is difficult to speculate as to what is running through a justice's mind. The only adequate way to find out exactly what a justice is thinking is to get their perspective on the issue. That factor along with my data set and some qualitative analysis could create a more detailed study.

All in all, this thesis demonstrated that an attorney does lack an effect in Supreme Court decision-making. Through my study, I found it surprising that there was not more text copied between the Court's opinions and the attorney's argumentation. This though, as stated earlier, could be due to the fact that the opinions might be written using different phrases that carry the same idea that the attorney is conveying. I also did not expect to see as many implied questions when reading the oral argumentations. Reading the oral argumentation and all the questions asked really indicated that an attorney may not be as effective as they appear to be. Overall, there were surprising elements in the data set and the results indicate what we should expect as a result of our divided political system.

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