

Judicial Specialization and Deference in Asylum Cases on the U.S. Courts of Appeals

Online Appendix

Maureen Stobb
Associate Professor of Political Science
P.O. Box 8101
Georgia Southern University
(912) 478-5765
mstobb@georgiasouthern.edu
ORCID ID: 0000-0003-2865-3815
Corresponding Author

Joshua B. Kennedy
Associate Professor of Political Science
P.O. Box 8101
Georgia Southern University
(912) 478-7928
joshuakennedy@georgiasouthern.edu
ORCID ID: 0000-0002-4886-2203

Section I: Descriptive Statistics

Table 1A below displays descriptive statistics for the variables included in our models. Note, the data cover the years 2002 through 2017. Here we provide a description of the control variables included in our models. To control for panel effects, we include a measure of **Panel Ideology**, which is the GHP score for the judge with the median ideology on the panel. We also ran models using an alternate measure of this variable, where values were the average GHP score for the other members of the panel; this did not appreciably change the result (see Table 21A and Figure 4A). This variable should be negatively correlated with a vote to remand. **Circuit Ideology** is the percent of the total number of judges sitting on the circuit in a given year that were appointed by Democratic presidents. It controls for the ideology of the circuit, to account for the possibility that judges' votes are influenced by their desire to avoid reversal by *en banc* review. We expect a vote to remand to be more probable when a judge sits in a liberal circuit, as he or she would fear reversal by a liberal court on *en banc* review. **BIA Opinion** is coded 1 if the BIA wrote an opinion (including cases where the BIA supplemented the immigration judge's opinion), and 0 if it adopted the immigration judge's decision without opinion. This addresses the possibility that circuit court judges may be more deferential to an opinion written by the highest administrative decision-maker. As discussed, some circuit judges argue *Chevron* deference does not apply to IJ decisions, and they need only defer to the decision to the extent that they determine it is persuasive based on the *Skidmore* factors. We expect that the sign on this variable will be negative, as judges will be less likely to remand an opinion written by the BIA. We do not include a variable for the lower court decision, as in Miller and Curry (2015), because prior research indicates that, in the vast majority of cases, the applicant is appealing a BIA denial of his or her claim (Miller, Keith and Holmes 2015). Our data confirm this finding.

Human Rights Abuse controls for the level of human rights abuses in the applicant's home country. We employ data from the Political Terror Scale (PTS), which measures violations of physical or personal integrity rights carried out by a state (or its agents) (Gibney 2017). Higher scores indicate greater state violence, therefore we expect the sign to be positive. We recognize that this human rights measure may not capture threats of low-level violence, such as the credible fear of violence from a gang of which the applicant is a former member, or of threats based on family membership. We address this limitation by checking a subset of 1000 cases (approximately a quarter of our dataset) to determine how many of these low-level issues are present in our dataset. Cases in which the applicant based the asylum claim on former membership in a gang constituted 0.3% of cases in the subset. Cases in which the applicant based the asylum claim on family membership constituted 1.1% of cases in the subset. This indicates that there are not a significant number of these type of cases that would not be captured by the existing operationalization. We also include several dummy variables to control for gender effects in immigration cases (**Male Applicant, Female Judge, and Female Panel**), as prior research suggests that that courts are more likely to reverse the BIA if the applicant is male and if a female judge is on the panel (Westerland 2009; Williams and Law 2010). Similar results were found at the administrative level (Miller, Keith and Holmes 2015). **Published Decision** is a dummy variable indicating whether the decision was published.

Table 1A: Descriptive Statistics

Variable	Range	Mean/Mode	Std. Dev.
<i>Specialization</i>	0-1004	117.844	127.6134
<i>Judicial Ideology</i>	-0.639-0.692	0.02	0.36
<i>Finding of Fact</i>	0 – 1	1	N/A
<i>Statutory Question</i>	0 – 1	0	N/A
<i>Constitutional Question</i>	0 – 1	0	N/A
<i>Abuse of Discretion</i>	0 – 1	0	N/A
<i>Circuit Yearly BIA Cases</i>	40-6,583	1,851.765	1821.238
<i>Panel Ideology</i>	-0.532 – 0.5725	-0.0009	0.310
<i>Circuit Ideology</i>	0.100 – 0.750	0.505	0.131
<i>BIA Opinion</i>	0 - 1	1	N/A
<i>Human Rights Abuses</i>	1 - 7	3.416	0.764
<i>Male Applicant</i>	0 - 1	1	N/A
<i>Female Judge</i>	0 - 1	0	N/A
<i>Female Panel</i>	0 - 1	1	N/A
<i>Published Decision</i>	0 - 1	0	N/A

Table 2A, 3A and 4A below display circuit level descriptive statistics, including the average number of asylum claims per year, the average number of remands per year, and the variation in our asylum specialization variable within circuits.

Table 2A. Average Number of Asylum Cases Per Year By Circuit in Sample

	First	Second	Third	Fourth	Fifth	Sixth	Seventh	Eighth	Ninth	Tenth	Eleventh
2002	1	2	2	1	4	1	4	2	27	2	0
2003	8	5	19	3	4	10	16	4	48	4	0
2004	23	7	30	12	15	11	25	23	166	17	1
2005	19	71	47	4	12	31	16	25	106	8	22
2006	16	249	49	5	10	34	22	12	107	11	55
2007	14	188	49	5	4	23	20	25	103	12	41
2008	30	146	71	10	10	15	23	16	120	7	34
2009	26	143	46	11	11	39	12	14	129	7	36
2010	13	76	64	12	10	16	7	9	88	8	32
2011	2	52	50	10	9	13	9	7	83	5	37
2012	24	61	28	12	6	16	6	12	31	11	23
2013	15	29	13	5	2	11	14	6	24	6	17
2014	17	41	12	6	3	14	13	6	27	5	17
2015	6	36	15	5	3	13	1	1	18	9	7
2016	4	40	7	4	4	9	3	4	30	1	6
2017	6	32	14	2	2	6	5	7	28	0	4
Total	224	1178	516	107	109	262	196	173	1135	113	332

Table 3A. Remand Rate Per Year By Circuit in Sample

	First	Second	Third	Fourth	Fifth	Sixth	Seventh	Eighth	Ninth	Tenth	Eleventh
2002	0%	50%	50%	0%	0%	0%	0%	0%	44%	50%	NA
2003	25%	80%	42%	0%	25%	10%	19%	0%	42%	0%	NA
2004	13%	29%	10%	16%	13%	27%	36%	17%	46%	18%	0%
2005	11%	30%	38%	0%	17%	23%	56%	12%	40%	38%	5%
2006	6%	36%	22%	20%	10%	9%	36%	33%	41%	45%	11%
2007	0%	23%	16%	80%	0%	17%	35%	20%	39%	8%	5%
2008	3%	13%	10%	40%	0%	0%	39%	6%	33%	0%	18%
2009	12%	3%	20%	18%	0%	8%	50%	29%	30%	0%	19%
2010	13%	5%	18%	25%	10%	13%	57%	0%	22%	0%	9%
2011	0%	6%	10%	40%	0%	8%	22%	0%	19%	20%	8%
2012	21%	10%	4%	17%	17%	6%	0%	8%	16%	0%	9%
2013	0%	13%	15%	0%	50%	0%	57%	33%	58%	50%	29%
2014	18%	22%	17%	67%	33%	7%	15%	17%	41%	0%	6%
2015	33%	6%	7%	60%	0%	8%	0%	0%	56%	0%	14%
2016	0%	10%	0%	25%	0%	22%	0%	0%	37%	0%	16%
2017	17%	6%	43%	0%	50%	17%	5%	0%	57%	NA	0%
Overall*	11%	19%	19%	28%	10%	11%	35%	14%	37%	15%	11%

*Overall remand rate is calculated using the number of remands for each circuit across all years in the sample. The overall rate of remands for all circuits is 22.37% (of 4,345 cases).

Table 4A: Variation in Asylum Specialization by Circuit

Case Circuit	Range	Mean	Std. Dev.	Total Asylum Cases
1	0-575	79.73	62.58	224
2	0-192	50.17	32.36	1178
3	0-358	109.36	81.92	516
4	0-262	115.87	77.22	107
5	0-156	55.08	37.66	109
6	0-160	56.76	38.25	262
7	0-177	72.90	42.25	196
8	0-160	42.00	29.78	173
9	0-1004	242.07	167.22	1135
10	0-140	8.41	11.74	113
11	0-402	140.11	106.91	332

Note: **High Volume Circuit** Low Volume Circuit

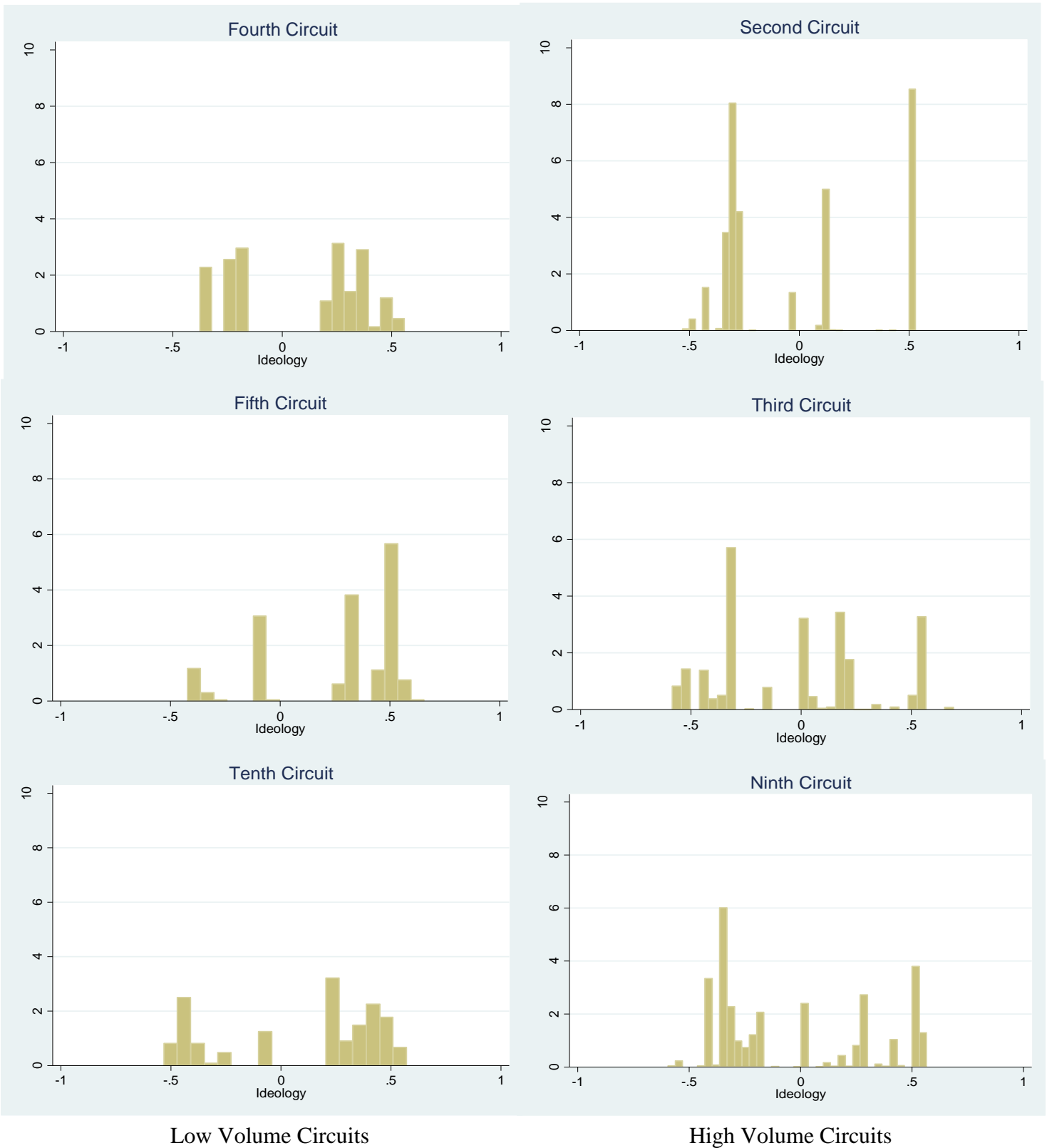
Table 5A: Variation in Judicial Ideology by Circuit

Case Circuit	Range	Mean	Std. Dev.	Total Asylum Cases
1	-0.639 – 0.559	0.034	0.415	224
2	-0.532 – 0.531	-0.014	0.363	1178
3	-0.585 – 0.692	-0.030	0.352	516
4	-0.377 – 0.559	0.080	0.314	107
5	-0.422 – 0.657	0.261	0.309	109
6	-0.532 – 0.559	0.068	0.379	262
7	-0.465 – 0.559	0.109	0.352	196
8	-0.595 – 0.531	0.136	0.306	173
9	-0.595 – 0.567	-0.033	0.357	1135
10	-0.532 – 0.573	0.105	0.364	113
11	-0.422 – 0.559	0.107	0.316	332

Note: **High Volume Circuit** Low Volume Circuit

In Tables 4A and 5A, we provide descriptive statistics to show the distribution of asylum specialization and judicial ideology across circuits. We highlight the descriptive statistics in high volume circuits (the three with the highest number of asylum cases) and low volume circuits (the three with the lowest number of asylum cases) in our sample. These statistics demonstrate that there is a good deal of variation at the judge and the circuit level. Within high immigration review circuits, there is considerable variation at the judge-level in specialization. Ideology is roughly evenly distributed between high asylum review circuits and low volume circuits, and there is considerable variation among the judges in the high-volume circuits. Figure 1A, below, further illustrates this point.

Figure 1A. Distribution of Judicial Ideology across Low and High Volume Circuits



Section II: Main Models

Below are the full results for the models in the main text, clustered on the circuit.

Table 6A. Effect of Specialization Contingent upon Ideology

Dependent Variable: Judge Vote (1 = Remand)	
Independent Variable	
<i>Specialization-Judicial Ideology</i>	-0.003* (0.001)
<i>Specialization</i>	0.001 (0.001)
<i>Judicial Ideology</i>	0.070 (0.137)
<i>Finding of Fact</i>	-0.289 (0.246)
<i>Statutory Question</i>	0.628* (0.304)
<i>Constitutional Question</i>	-0.739*** (0.230)
<i>Abuse of Discretion Question</i>	-0.313 (0.240)
<i>Circuit Yearly BIA Cases</i>	0.000 (0.000)
<i>Panel Ideology</i>	-0.684** (0.290)
<i>Circuit Ideology</i>	1.770 (1.368)
<i>BIA Opinion</i>	0.141 (0.075)
<i>Human Rights Abuses</i>	-0.036 (0.069)
<i>Male Applicant</i>	-0.115 (0.077)
<i>Female Judge</i>	0.129* (0.060)
<i>Female Panel</i>	0.102 (0.093)
<i>Published Decision</i>	1.706*** (0.205)
<i>Second Circuit</i>	0.394 (0.268)
<i>Ninth Circuit</i>	0.630 (0.511)
<i>Constant</i>	-2.711** (0.887)
<i>N</i>	9,848
<i>Log-Pseudolikelihood</i>	-4392.4579
<i>Pseudo-R²</i>	0.1792

*p<0.05; **p<0.01; ***p<0.001. Standard errors clustered on the circuit. Yearly FEs included but not shown.

Circuit Yearly BIA Cases is not statistically significant. **Panel ideology** is significant and negative, indicating that as the median ideology of the panel becomes more conservative, a vote to remand is less likely. Panel effects may be especially strong because judges are less likely to dissent in asylum cases than in other areas of law. The rate of dissent in our database of asylum cases is 3.57%, significantly below the estimated norm for the courts of appeals of 9.5% (Hettinger, Lindquist and Martinek 2006). **Circuit ideology, BIA Opinion, Human Rights Abuses and Male Applicant** are not significant. **Published Decision** is significant and positive, indicating a vote to remand is more likely when the opinion is published. The dummy variables for the Second and Ninth circuits are not significant.

Table 7A. Specialization Contingent upon Legal Issue, Liberal Judges

Independent Variable	Dependent Variable: Judge Vote (1 = Remand)			
	Finding of Fact	Stat. Question	Const. Question	Abuse Question
<i>Specialization-Finding of Fact</i>	0.000 (0.001)	---	---	---
<i>Specialization-Stat. Question</i>	---	-0.003*** (0.001)	---	---
<i>Specialization-Const. Question</i>	---	---	0.003*** (0.001)	---
<i>Specialization-Abuse Question</i>	---	---	---	0.001 (0.001)
<i>Specialization</i>	0.002 (0.001)	0.002*** (0.000)	0.002*** (0.000)	0.002*** (0.000)
<i>Finding of Fact</i>	-0.278 (0.227)	-0.265 (0.220)	-0.244 (0.199)	-0.249 (0.211)
<i>Stat. Question</i>	0.437 (0.442)	0.927** (0.359)	0.457 (0.444)	0.435 (0.446)
<i>Const. Question</i>	-0.883*** (0.227)	-0.938*** (0.224)	-1.308*** (0.307)	-0.891*** (0.230)
<i>Abuse Question</i>	-0.469 (0.250)	-0.490 (0.257)	-0.485* (0.250)	-0.632* (0.313)
<i>Circuit Yearly BIA Cases</i>	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)
<i>Panel Ideology</i>	-0.565 (0.370)	-0.591 (0.372)	-0.579 (0.385)	-0.574 (0.373)
<i>Circuit Ideology</i>	1.123 (1.453)	1.023 (1.458)	1.077 (1.453)	1.109 (1.453)
<i>BIA Opinion</i>	0.211*** (0.056)	0.219*** (0.058)	0.209*** (0.053)	0.221*** (0.054)
<i>Human Rights Abuses</i>	-0.127* (0.056)	-0.120* (0.056)	-0.122* (0.056)	-0.123* (0.055)
<i>Male Applicant</i>	-0.059 (0.087)	-0.044 (0.085)	-0.053 (0.087)	-0.059 (0.086)
<i>Female Judge</i>	-0.003 (0.097)	0.004 (0.097)	-0.009 (0.096)	-0.004 (0.097)
<i>Female Panel</i>	0.161* (0.076)	0.158* (0.082)	0.171* (0.076)	0.160* (0.075)
<i>Published Decision</i>	1.854*** (0.204)	1.856*** (0.201)	1.858*** (0.205)	1.851*** (0.203)
<i>Second Circuit</i>	0.564* (0.285)	0.618* (0.284)	0.548* (0.280)	0.557* (0.281)
<i>Ninth Circuit</i>	0.634 (0.477)	0.657 (0.480)	0.639 (0.475)	0.633 (0.472)
<i>Constant</i>	-2.169* (1.035)	-2.191* (1.032)	-2.129* (1.004)	-2.186* (1.037)
<i>N</i>	4,876	4,876	4,876	4,876
<i>Log-Pseudolikelihood</i>	-2290.8387	-2279.5684	-2284.5736	-2289.7790
<i>Pseudo-R²</i>	0.2099	0.2138	0.2121	0.2103

*p<0.05; **p<0.01; ***p<0.001. Standard errors clustered on the circuit. Yearly FEs included but not shown.

Table 8A. Specialization Contingent upon Legal Issue, Conservative Judges

Independent Variable	Dependent Variable: Judge Vote (1 = Remand)			
	Finding of Fact	Stat. Question	Const. Question	Abuse Question
<i>Specialization-Finding of Fact</i>	0.000 (0.001)	---	---	---
<i>Specialization-Stat. Question</i>	---	-0.002 (0.001)	---	---
<i>Specialization-Const. Question</i>	---	---	0.001(0.001)	---
<i>Specialization-Abuse Question</i>	---	---	---	0.001 (0.001)
<i>Specialization</i>	-0.001 (0.002)	-0.000 (0.002)	-0.001 (0.001)	-0.001 (0.001)
<i>Finding of Fact</i>	-0.432 (0.440)	-0.410 (0.337)	-0.381 (0.331)	-0.388 (0.331)
<i>Stat. Question</i>	0.826*** (0.183)	1.047*** (0.204)	0.824*** (0.187)	0.822*** (0.187)
<i>Const. Question</i>	-0.618* (0.293)	-0.628* (0.288)	-0.711* (0.319)	-0.624* (0.291)
<i>Abuse Question</i>	-0.162 (0.260)	-0.175 (0.254)	-0.162 (0.255)	-0.224 (0.298)
<i>Circuit Yearly BIA Cases</i>	-0.000 (0.000)	-0.000 (0.0000)	-0.000 (0.000)	-0.000 (0.000)
<i>Panel Ideology</i>	-0.726** (0.252)	-0.733** (0.253)	-0.732** (0.250)	-0.729** (0.253)
<i>Circuit Ideology</i>	2.511 (1.354)	2.519 (1.364)	2.519 (1.357)	2.503 (1.357)
<i>BIA Opinion</i>	0.019 (0.116)	0.021 (0.116)	0.020 (0.114)	0.025 (0.115)
<i>Human Rights Abuses</i>	0.066 (0.098)	0.069 (0.099)	0.067 (0.099)	0.066 (0.099)
<i>Male Applicant</i>	-0.178 (0.106)	-0.168 (0.104)	-0.177 (0.106)	-0.178 (0.105)
<i>Female Judge</i>	0.285 (0.285)	0.283 (0.285)	0.285 (0.285)	0.284 (0.285)
<i>Female Panel</i>	0.070 (0.136)	0.070 (0.139)	0.073 (0.138)	0.073 (0.138)
<i>Published Decision</i>	1.589*** (0.251)	1.590*** (0.253)	1.586*** 0.251	1.588*** (0.252)
<i>Second Circuit</i>	0.188 (.254)	0.207 (0.255)	0.180 (0.253)	0.187 (0.253)
<i>Ninth Circuit</i>	0.620 (0.623)	0.642 (0.622)	0.614 (0.623)	0.622 (0.617)
<i>Constant</i>	-3.081** (1.099)	-3.155** (1.005)	-3.113** (0.995)	-3.113** (1.003)
<i>N</i>	4972	4,972	4,972	4,972
<i>Log-Pseudolikelihood</i>	-2058.1840	-2056.1003	-2057.8986	-2058.0987
<i>Pseudo-R²</i>	0.1384	0.1392	0.1385	0.1384

*p<0.05; **p<0.01; ***p<0.001. Standard errors clustered on the circuit. Yearly FEs included but not shown.

Section III: Alternative specifications

Table 9A. Effect of Specialization Contingent upon Ideology, Judge and Case Clusters

Independent Variable	Dependent Variable: Judge Vote (1 = Remand)	
	Clustered on the Judge	Clustered on the Case
<i>Specialization-Judicial Ideology</i>	-0.003** (0.001)	-0.003*** (0.001)
<i>Specialization</i>	0.001 (0.001)	0.001 (0.000)
<i>Judicial Ideology</i>	0.070 (0.201)	0.070 (0.085)
<i>Finding of Fact</i>	-0.289* (0.130)	-0.289 (0.186)
<i>Statutory Question</i>	0.628*** (0.116)	0.628*** (0.151)
<i>Constitutional Question</i>	-0.739*** (0.106)	-0.739*** (0.160)
<i>Abuse of Discretion Question</i>	-0.313* (0.125)	-0.313 (0.175)
<i>Circuit Yearly BIA Cases</i>	0.000 (0.000)	0.000 (0.000)
<i>Panel Ideology</i>	-0.684*** (0.132)	-0.684*** (0.160)
<i>Circuit Ideology</i>	1.770* (0.608)	1.770** (0.579)
<i>BIA Opinion</i>	0.141* (0.064)	0.141 (0.112)
<i>Human Rights Abuses</i>	-0.036 (0.041)	-0.036 (0.060)
<i>Male Applicant</i>	-0.115* (0.058)	-0.115 (0.098)
<i>Female Judge</i>	0.129 (0.163)	0.129** (0.048)
<i>Female Panel</i>	0.102 (0.083)	0.102 (0.094)
<i>Published Decision</i>	1.706*** (0.104)	1.706*** (0.111)
<i>Second Circuit</i>	0.394* (0.168)	0.394* (0.174)
<i>Ninth Circuit</i>	0.630*(0.293)	0.630* (0.300)
<i>Constant</i>	-2.711*** (0.503)	-2.711*** (0.550)
<i>N</i>	9,848	9,848
<i>Log-Pseudolikelihood</i>	-4392.4579	-4392.4579
<i>Pseudo-R²</i>	0.1792	0.1792

*p<0.05; **p<0.01; ***p<0.001. Yearly FEs included but not shown.

Table 10A. Marginal Effects of Standard Deviation Increase in Judicial Ideology at Highest Level of Specialization

Clustered on the Judge	Clustered on the Case
-15.96%	-15.9%

Note: Results correspond with Table 9A

Table 11A. Effect of Specialization Contingent upon Legal Issue, Liberal Judges, Clustered on the Judge

Independent Variable	Dependent Variable: Judge Vote (1 = Remand)			
	Finding of Fact	Stat. Question	Const. Question	Abuse Question
<i>Specialization-Finding of Fact</i>	0.000 (0.001)	---	---	---
<i>Specialization-Stat. Question</i>	---	-0.003*** (0.001)	---	---
<i>Specialization-Const. Question</i>	---	---	0.003*** (0.001)	---
<i>Specialization-Abuse Question</i>	---	---	---	0.001 (0.001)
<i>Specialization</i>	0.002 (0.001)	0.003*** (0.001)	0.002** (0.001)	0.002** (0.001)
<i>Finding of Fact</i>	-0.278 (0.224)	-0.265 (0.164)	-0.244 (0.162)	-0.249 (0.164)
<i>Stat. Question</i>	0.437** (0.180)	0.927*** (0.177)	0.457** (0.181)	0.435** (0.180)
<i>Const. Question</i>	-0.884*** (0.138)	-0.938*** (0.141)	-1.308*** (0.198)	-0.891*** (0.139)
<i>Abuse Question</i>	-0.469** (0.173)	-0.489** (0.172)	-0.485** (0.170)	-0.632** (0.222)
<i>Circuit Yearly BIA Cases</i>	0.000 (0.000)	0.000 (0.000)	.000 (0.000)	0.000 (0.000)
<i>Panel Ideology</i>	-0.565** (0.204)	-0.591** (0.204)	-0.579** (0.204)	-0.574** (0.203)
<i>Circuit Ideology</i>	1.123 (0.975)	1.023 (0.978)	1.077 (0.976)	1.109 (0.975)
<i>BIA Opinion</i>	0.211** (0.085)	0.219** (0.085)	0.209* (0.084)	0.221** (0.085)
<i>Human Rights Abuses</i>	-0.127** (0.053)	-0.120* (0.053)	-0.122* (0.053)	-0.123* (0.053)
<i>Male Applicant</i>	-0.059 (0.078)	-0.044 (0.079)	-0.053 (0.078)	-0.059 (0.079)
<i>Female Judge</i>	-0.003 (0.211)	0.004 (0.211)	-0.009 (0.213)	-0.004 (0.211)
<i>Female Panel</i>	0.161 (0.116)	0.158 (0.118)	0.171 (0.116)	0.160 (0.116)
<i>Published Decision</i>	1.854*** (0.146)	1.856*** (0.145)	1.858*** (0.147)	1.851*** (0.145)
<i>Second Circuit</i>	0.564* (0.232)	0.618** (0.233)	0.548* (0.230)	0.557* (0.230)
<i>Ninth Circuit</i>	0.634 (0.386)	0.657 (0.389)	0.639 (0.387)	0.633 (0.382)
<i>Constant</i>	-2.169** (0.812)	-2.191** (0.782)	-2.129** (0.782)	-2.186** (0.779)
<i>N</i>	4876	4,876	4,876	4,876
<i>Log-Pseudolikelihood</i>	-2290.8387	-2279.5684	-2284.5736	-2289.7790
<i>Pseudo-R2</i>	0.2099	0.2138	0.2121	0.2103

*p<0.05; **p<0.01; ***p<0.001. Yearly FEs included but not shown.

Table 12A. Specialization Contingent upon Legal Issue, Liberal Judges, Clustered on the Case

Independent Variable	Dependent Variable: Judge Vote (1 = Remand)			
	Finding of Fact	Stat. Question	Const. Question	Abuse Question
<i>Specialization-Finding of Fact</i>	0.000 (0.001)	---	---	---
<i>Specialization-Stat. Question</i>	---	-0.003*** (0.001)	---	---
<i>Specialization-Const. Question</i>	---	---	0.003*** (0.001)	---
<i>Specialization-Abuse Question</i>	---	---	---	0.001 (0.001)
<i>Specialization</i>	0.002 (0.001)	0.003*** (0.000)	0.002*** (0.000)	0.002*** (0.000)
<i>Finding of Fact</i>	-0.278 (0.258)	-0.265 (0.218)	-0.244 (0.220)	-0.249 (0.220)
<i>Stat. Question</i>	0.437* (0.180)	0.927*** (0.218)	0.458** (0.181)	0.435* (0.180)
<i>Const. Question</i>	-0.884*** (0.189)	-0.938*** (0.189)	-1.309*** (0.248)	-0.891*** (0.190)
<i>Abuse Question</i>	-0.469* (0.203)	-0.489** (0.207)	-0.485* (0.205)	-0.632** (0.253)
<i>Circuit Yearly BIA Cases</i>	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)
<i>Panel Ideology</i>	-0.565** (0.192)	-0.591** (0.192)	-0.579** (0.193)	-0.574** (0.192)
<i>Circuit Ideology</i>	1.123 (0.731)	1.023 (0.733)	1.077 (0.733)	1.109 (0.731)
<i>BIA Opinion</i>	0.211 (0.132)	0.000 (0.000)	0.209 (0.132)	0.221 (0.132)
<i>Human Rights Abuses</i>	-0.127 (0.071)	-0.120 (0.071)	-0.122 (0.071)	-0.123 (0.071)
<i>Male Applicant</i>	-0.059 (0.117)	-0.044 (0.1179)	-0.053 (0.116)	-0.059 (0.117)
<i>Female Judge</i>	-0.003 (0.072)	0.004 (0.073)	-0.009 (0.072)	-0.004 (0.072)
<i>Female Panel</i>	0.161 (0.114)	0.158 (0.115)	0.171 (0.114)	0.160 (0.114)
<i>Published Decision</i>	1.854*** (0.131)	1.856*** (0.132)	1.858*** (0.131)	1.851*** (0.131)
<i>Second Circuit</i>	0.564** (0.197)	0.618** (0.198)	0.548** (0.197)	0.557** (0.197)
<i>Ninth Circuit</i>	0.634 (0.355)	0.657 (0.358)	0.639 (0.354)	0.633 (0.354)
<i>Constant</i>	-2.169** (0.711)	-2.191** (0.694)	-2.129** (0.699)	-2.186** (0.691)
<i>N</i>	4,876	4,876	4,876	4,876
<i>Log-Pseudolikelihood</i>	-2290.8387	-2279.5684	-2284.5736	-2289.7790
<i>Pseudo-R²</i>	0.2099	0.2138	0.2121	0.2103

*p<0.05; **p<0.01; ***p<0.001. Yearly FEs included but not shown.

Table 13A. Specialization Contingent upon Legal Issue, Conservative Judges, Clustered on the Judge

Independent Variable	Dependent Variable: Judge Vote (1 = Remand)			
	Finding of Fact	Stat. Question	Const. Question	Abuse Question
<i>Specialization-Finding of Fact</i>	0.000 (0.001)	---	---	---
<i>Specialization-Stat. Question</i>	---	-0.002 (0.001)	---	---
<i>Specialization-Const. Question</i>	---	---	0.001 (0.001)	---
<i>Specialization-Abuse Question</i>	---	---	---	0.001 (0.001)
<i>Specialization</i>	-0.001 (0.001)	-0.000 (0.001)	-0.001 (0.001)	-0.001 (0.001)
<i>Finding of Fact</i>	-0.432 (0.252)	-0.410* (0.207)	-0.381 (0.205)	-0.388 (0.207)
<i>Stat. Question</i>	0.826*** (0.137)	1.047*** (0.190)	0.824*** (0.137)	0.822*** (0.137)
<i>Const. Question</i>	-0.618*** (0.156)	-0.628*** (0.156)	-0.711*** (0.207)	-0.624*** (0.156)
<i>Abuse Question</i>	-0.162 (0.190)	-0.175 (0.186)	-0.162 (0.186)	-0.224 (0.232)
<i>Circuit Yearly BIA Cases</i>	-0.000 (0.000)	-0.000 (0.000)	-0.000 (0.000)	-0.000 (0.000)
<i>Panel Ideology</i>	-0.726*** (0.176)	-0.733*** (0.176)	-0.732*** (0.177)	-0.729** (0.177)
<i>Circuit Ideology</i>	2.511*** (0.760)	2.519*** (0.760)	2.519*** (0.761)	2.503*** (0.760)
<i>BIA Opinion</i>	0.019 (0.094)	0.021 (0.095)	0.020 (0.094)	0.025 (0.097)
<i>Human Rights Abuses</i>	0.066 (0.066)	0.069 (0.066)	0.067 (0.066)	0.066 (0.066)
<i>Male Applicant</i>	-0.178* (0.087)	-0.168* (0.087)	-0.177* (0.087)	-0.178 (0.087)
<i>Female Judge</i>	0.285 (0.246)	0.283 (0.245)	0.285 (0.245)	0.284 (0.245)
<i>Female Panel</i>	0.070 (0.114)	0.070 (0.114)	0.073 (0.114)	0.073 (0.114)
<i>Published Decision</i>	1.589*** (0.141)	1.590*** (0.141)	1.586*** (0.140)	1.588*** (0.141)
<i>Second Circuit</i>	0.188 (0.243)	0.207 (0.243)	0.180 (0.243)	0.187 (0.242)
<i>Ninth Circuit</i>	0.620 (0.409)	0.642 (0.407)	0.614 (0.408)	0.622 (0.408)
<i>Constant</i>	-3.081*** (0.716)	-3.155*** (0.691)	-3.113*** (0.689)	-3.113*** (0.690)
<i>N</i>	4,972	4,972	4,972	4,972
<i>Log-Pseudolikelihood</i>	-2058.1840	-2056.1003	-2057.8986	-2058.0987
<i>Pseudo-R²</i>	0.1384	0.1392	0.1385	0.1384

*p<0.05; **p<0.01; ***p<0.001. Yearly FEs included but not shown.

Table 14A. Specialization Contingent upon Legal Issue, Conservative, Clustered on the Case

Independent Variable	Dependent Variable: Judge Vote (1 = Remand)			
	Finding of Fact	Stat. Question	Const. Question	Abuse Question
<i>Specialization-Finding of Fact</i>	0.000 (0.001)	---	---	---
<i>Specialization-Stat. Question</i>	---	-0.002 (0.001)	---	---
<i>Specialization-Const. Question</i>	---	---	0.001 (0.001)	---
<i>Specialization-Abuse Question</i>	---	---	---	0.001 (0.001)
<i>Specialization</i>	-0.001 (0.001)	-0.000 (0.001)	-0.001 (0.001)	-0.001 (0.001)
<i>Finding of Fact</i>	-0.432 (0.281)	-0.410 (0.225)	-0.381 (0.224)	-0.388 (0.227)
<i>Stat. Question</i>	0.826*** (0.176)	1.047*** (0.219)	0.824*** (0.176)	0.822*** (0.176)
<i>Const. Question</i>	-0.618** (0.200)	-0.628** (0.200)	-0.711** (0.226)	-0.624** (0.202)
<i>Abuse Question</i>	-0.162 (0.223)	-0.175 (0.218)	-0.162 (0.219)	-0.223 (0.264)
<i>Circuit Yearly BIA Cases</i>	-0.000 (0.000)	-0.000 (0.000)	-0.000 (0.000)	-0.000 (0.000)
<i>Panel Ideology</i>	-0.726*** (0.177)	-0.733*** (0.177)	-0.732*** (0.177)	-0.729*** (0.177)
<i>Circuit Ideology</i>	2.511*** (0.651)	2.519*** (0.653)	2.519*** (0.653)	2.503*** (0.652)
<i>BIA Opinion</i>	0.019 (0.134)	0.021 (0.134)	0.020 (0.134)	0.025 (0.133)
<i>Human Rights Abuses</i>	0.066 (0.073)	0.069 (0.073)	0.067 (0.073)	0.066 (0.073)
<i>Male Applicant</i>	-0.178 (0.115)	-0.168 (0.116)	-0.177 (0.115)	-0.178 (0.115)
<i>Female Judge</i>	0.285** (0.104)	0.283** (0.104)	0.285** (0.104)	0.284** (0.104)
<i>Female Panel</i>	0.0700612 0.1110977	0.070 (0.111)	0.073 (0.111)	0.073 (0.111)
<i>Published Decision</i>	1.589*** (0.130)	1.590*** (0.131)	1.586*** (0.131)	1.588 (0.130)
<i>Second Circuit</i>	0.188 (0.209)	0.207 (0.209)	0.180 (0.209)	0.187 (0.208)
<i>Ninth Circuit</i>	0.620 (0.367)	0.642 (0.366)	0.614 (0.367)	0.622 (0.367)
<i>Constant</i>	-3.08*** (0.660)	-3.155*** (0.639)	-3.113*** (0.637)	-3.113*** (0.640)
<i>N</i>	4,972	4,972	4,972	4,972
<i>Log-Pseudolikelihood</i>	-2058.1840	-2056.1003	-2057.8986	-2058.0987
<i>Pseudo-R²</i>	0.1384	0.1392	0.1385	0.1384

*p<0.05; **p<0.01; ***p<0.001. Yearly FEs included but not shown.

Table 15A. Effect of Standard Deviation Increase in Specialization by Legal Issue and Judicial Ideology (Judge Clusters)

Legal Issue	Liberal Judges	Conservative Judges
Finding of Fact Issue	+3.83%	None
Statutory Issue	None	None
Constitutional Issue	+6.38%	None
Abuse of Discretion Issue	+4.72%	None

Note: Results correspond with Tables 11A and 13A

Table 16A. Effect of Standard Deviation Increase in Specialization by Legal Issue and Judicial Ideology (Case Clusters)

Legal Issue	Liberal Judges	Conservative Judges
Finding of Fact Issue	+3.83%	None
Statutory Issue	None	None
Constitutional Issue	+6.38%	None
Abuse of Discretion Issue	+5.10%	None

Note: Results correspond with Tables 12A and 14A

Table 17A. Effect of Specialization Contingent upon Ideology, Bonica and Sen

Dependent Variable: Judge Vote (1 = Remand)	
Independent Variable	
<i>Specialization-Judicial Ideology</i>	-0.001*** (0.0003)
<i>Specialization</i>	0.0006 (0.001)
<i>Judicial Ideology</i>	-0.118 (0.064)
<i>Finding of Fact</i>	-0.287 (0.284)
<i>Statutory Question</i>	0.595 (0.307)
<i>Constitutional Question</i>	-0.896*** (0.196)
<i>Abuse of Discretion Question</i>	-0.231 (0.198)
<i>Circuit Yearly BIA Cases</i>	0.000 (0.000)
<i>Panel Ideology</i>	-0.189*** (0.043)
<i>Circuit Ideology</i>	1.280 (1.367)
<i>BIA Opinion</i>	0.134 (0.097)
<i>Human Rights Abuses</i>	-0.046 (0.065)
<i>Male Applicant</i>	-0.111 (0.079)
<i>Female Judge</i>	0.115 (0.098)
<i>Female Panel</i>	0.132 (0.097)
<i>Published Decision</i>	1.659*** (0.185)
<i>Second Circuit</i>	0.415 (0.327)
<i>Ninth Circuit</i>	0.883 (0.551)
<i>Constant</i>	-2.410** (0.842)
<i>N</i>	8,191
<i>Log-Pseudolikelihood</i>	-3655.2415
<i>Pseudo-R²</i>	0.1788

*p<0.05; **p<0.01; ***p<0.001. Standard errors clustered on the circuit. Yearly FEs included but not shown.

Table 18A. Effect of Specialization Contingent upon Ideology, Howard and Hughes

Dependent Variable: Judge Vote (1 = Remand)	
Independent Variable	
<i>Specialization-Judicial Ideology</i>	-0.001* (0.0001)
<i>Specialization</i>	0.0001 (0.0004)
<i>Judicial Ideology</i>	-0.020 (0.051)
<i>Finding of Fact</i>	-0.400 (0.446)
<i>Statutory Question</i>	0.397 (0.290)
<i>Constitutional Question</i>	-0.961*** (0.183)
<i>Abuse of Discretion Question</i>	-0.264 (0.333)
<i>Circuit Yearly BIA Cases</i>	-0.000 (0.000)
<i>Panel Ideology</i>	-0.241* (0.108)
<i>Circuit Ideology</i>	2.152* (0.908)
<i>BIA Opinion</i>	0.167 (0.104)
<i>Human Rights Abuses</i>	-0.030 (0.085)
<i>Male Applicant</i>	-0.123 (0.117)
<i>Female Judge</i>	0.144 (0.105)
<i>Female Panel</i>	0.330* (0.167)
<i>Published Decision</i>	1.874*** (0.248)
<i>Second Circuit</i>	0.111 (0.191)
<i>Ninth Circuit</i>	0.573 (0.372)
<i>Constant</i>	-2.704*** (0.642)
<i>N</i>	5,192
<i>Log-Pseudolikelihood</i>	-2335.7791
<i>Pseudo-R²</i>	0.2056

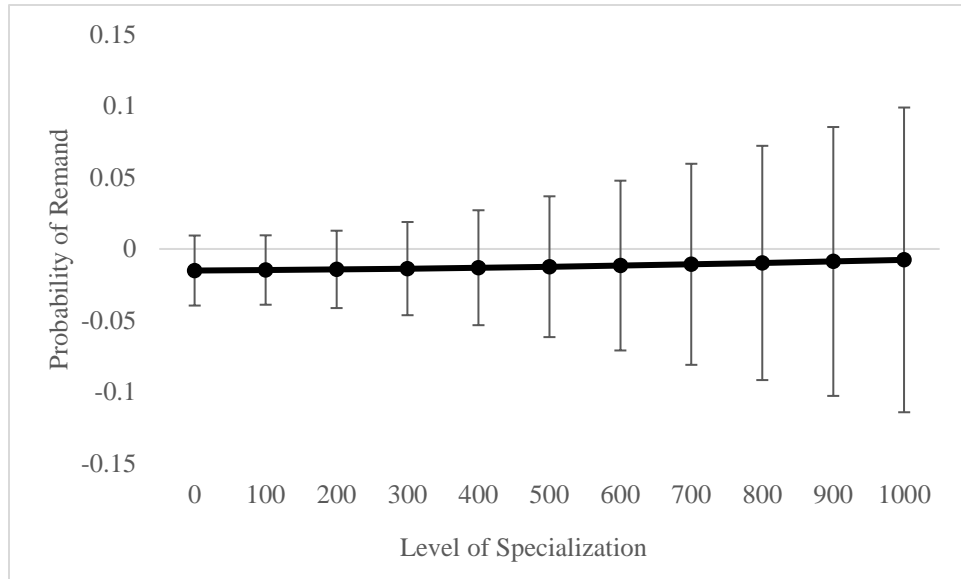
*p<0.05; **p<0.01; ***p<0.001. Standard errors clustered on the circuit. Yearly FEs included but not shown.

**Table 19A. Testing a Theory of Agency Capture and of Judicial Alignment w/
Administration**

Dependent Variable: Judge Vote (1 = Remand)		
Independent Variable	(1) Interaction	(2) No Interaction
<i>Specialization-Ideological Alignment</i>	-0.0001 (0.0003)	--
<i>Specialization</i>	0.001* (0.0005)	0.001 (0.001)
<i>Ideological Alignment</i>	0.110 (0.094)	0.101 (0.090)
<i>Judicial Ideology</i>	-0.217 (0.136)	-0.220 (0.137)
<i>Finding of Fact</i>	-0.282 (0.246)	-0.283 (0.246)
<i>Statutory Question</i>	0.631* (0.300)	0.631* (0.300)
<i>Constitutional Question</i>	-0.745** (0.231)	-0.745** (0.231)
<i>Abuse of Discretion Question</i>	-0.308 (0.241)	-0.308 (0.239)
<i>Circuit Yearly BIA Cases</i>	0.00003 (0.0001)	0.00003 (0.0001)
<i>Panel Ideology</i>	-0.682* (0.285)	-0.683* (0.285)
<i>Circuit Ideology</i>	1.711 (1.361)	1.710 (1.360)
<i>BIA Opinion</i>	0.140 (0.074)	0.140 (0.074)
<i>Human Rights Abuses</i>	-0.034 (0.069)	-0.034 (0.069)
<i>Male Applicant</i>	-0.112 (0.077)	-0.112 (0.077)
<i>Female Judge</i>	0.141** (0.054)	0.142** (0.053)
<i>Female Panel</i>	0.095 (0.094)	0.095 (0.094)
<i>Published Decision</i>	1.702*** (0.205)	1.702*** (0.205)
<i>Second Circuit</i>	0.403 (0.270)	0.405 (0.270)
<i>Ninth Circuit</i>	0.657 (0.522)	0.657 (0.521)
<i>Constant</i>	-2.773** (0.906)	-2.767** (0.902)
<i>N</i>	9,848	9,848
<i>Log-Pseudolikelihood</i>	-4402.6576	-4402.6637
<i>Pseudo-R²</i>	0.1773	0.1773

*p<0.05; **p<0.01; ***p<0.001. Standard errors clustered on the circuit. Yearly FEs included but not shown.

Figure 2A. The Marginal Effect of Ideological Alignment, by Specialization



Note: Results correspond with Column 1, Table 19A

Table 20A. Alternative Measure of Specialization (2005-2017)

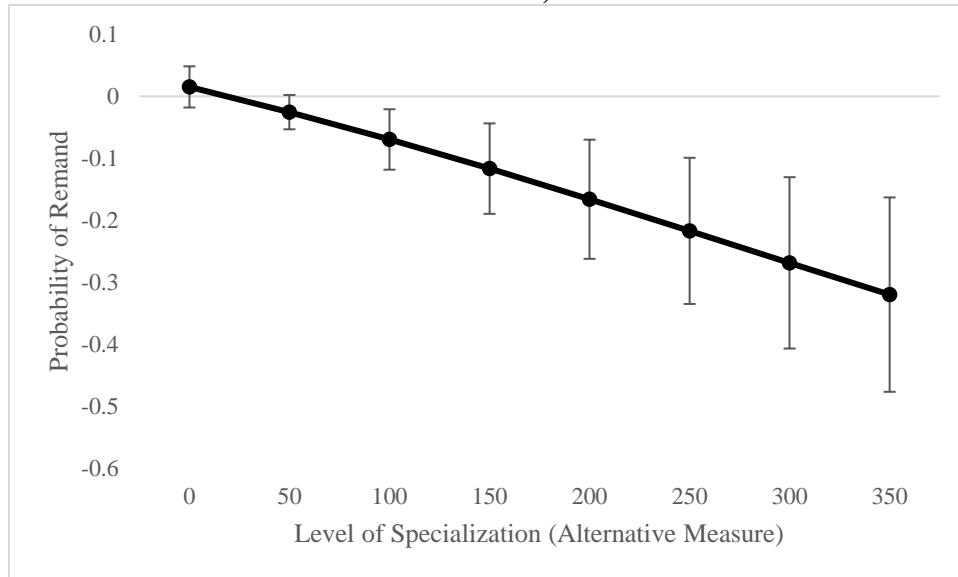
Dependent Variable: Judge Vote (1 = Remand)	
Independent Variable	
<i>Specialization-Judicial Ideology</i>	-0.0059* (0.0025)
<i>Specialization</i>	0.002 (0.002)
<i>Judicial Ideology</i>	0.112 (0.123)
<i>Finding of Fact</i>	-0.313 (0.241)
<i>Statutory Question</i>	0.664* (0.282)
<i>Constitutional Question</i>	-0.577** (0.211)
<i>Abuse of Discretion Question</i>	-0.363 (0.221)
<i>Circuit Yearly BIA Cases</i>	-0.0000 (0.0001)
<i>Panel Ideology</i>	-0.689** (0.210)
<i>Circuit Ideology</i>	1.360 (1.522)
<i>BIA Opinion</i>	-0.013 (0.093)
<i>Human Rights Abuses</i>	-0.022 (0.068)
<i>Male Applicant</i>	-0.101 (0.089)
<i>Female Judge</i>	0.165** (0.048)
<i>Female Panel</i>	0.077 (0.122)
<i>Published Decision</i>	1.613*** (0.255)
<i>Second Circuit</i>	0.448 (0.240)
<i>Ninth Circuit</i>	0.790 (0.494)
<i>Constant</i>	-2.461* (1.049)
<i>N</i>	8,330
<i>Log-Pseudolikelihood</i>	-3696.1378
<i>Pseudo-R²</i>	0.1565

*p<0.05; **p<0.01; ***p<0.001. Standard errors clustered on the circuit. Yearly FEs included but not shown.

Specialization is measured as cumulative exposure to asylum cases in the three years preceding the case being heard. These results support our argument that experience measured as exposure to asylum cases is different from the acclimation effect stemming from years on the bench examined by Miller and Curry (2009). Exposure to asylum cases provides specific information about these cases that mitigates agency advantage. A judge could have a substantial number of years on the bench and not see enough cases to obtain the needed information, or could gain this knowledge in a short time period by seeing a high number of cases.

Figure 3A, below, illustrates the effect of judicial ideology by level of specialization when employing this alternative measure.

Figure 3A. Marginal Effect of Judicial Ideology by Level of Specialization (Alternative Measure)



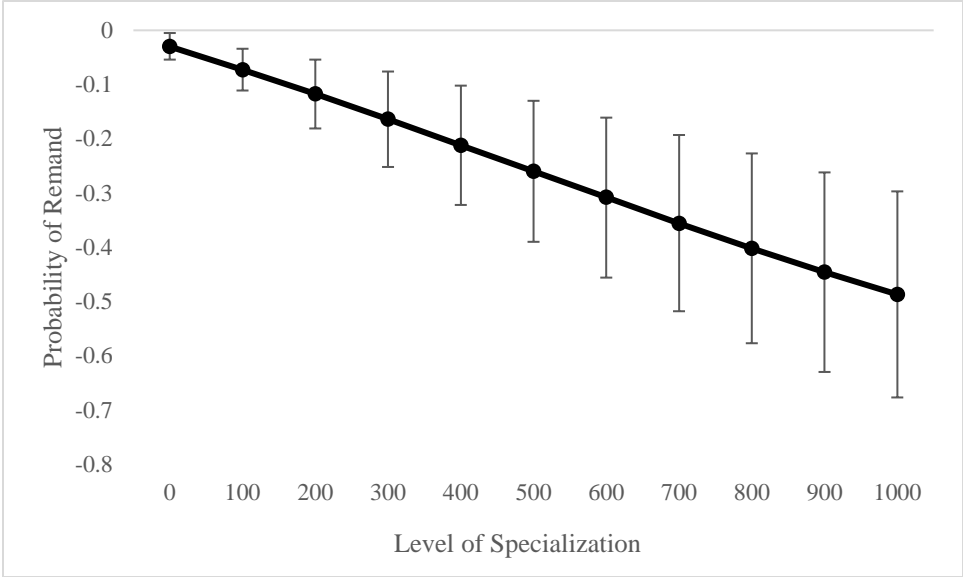
Note: Results correspond to Table 20A

Table 21A. Alternative Measure of Panel Ideology

Dependent Variable: Judge Vote (1 = Remand)	
Independent Variable	
<i>Specialization-Judicial Ideology</i>	-0.0030* (0.0012)
<i>Specialization</i>	0.001 (0.001)
<i>Judicial Ideology</i>	-0.214* (0.089)
<i>Finding of Fact</i>	-0.292 (0.244)
<i>Statutory Question</i>	0.637* (0.305)
<i>Constitutional Question</i>	-0.752** (0.229)
<i>Abuse of Discretion Question</i>	-0.316 (0.243)
<i>Circuit Yearly BIA Cases</i>	-0.0000 (0.0001)
<i>Panel Ideology</i>	-0.747*** (0.197)
<i>Circuit Ideology</i>	1.728 (1.403)
<i>BIA Opinion</i>	0.133 (0.078)
<i>Human Rights Abuses</i>	-0.038 (0.069)
<i>Male Applicant</i>	-0.109 (0.080)
<i>Female Judge</i>	0.141* (0.063)
<i>Female Panel</i>	0.091 (0.092)
<i>Published Decision</i>	1.701*** (0.200)
<i>Second Circuit</i>	0.410 (0.261)
<i>Ninth Circuit</i>	0.621 (0.505)
<i>Constant</i>	-2.632** (0.916)
<i>N</i>	9,866
<i>Log-Pseudolikelihood</i>	-4398.1575
<i>Pseudo-R²</i>	0.1798

*p<0.05; **p<0.01; ***p<0.001. Standard errors clustered on the circuit. Yearly FEs included but not shown. **Panel Ideology** is the average GHP score of the other members of the panel.

Figure 4A. Marginal Effect of Judicial Ideology by Level of Specialization (Alternative Panel Ideology Measure)



Note: Results correspond with Table 21A