**Supreme Prejudice Appendix**

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# Section A. Details about Crime Type Classification

The following tables show the specific offenses within each offense-type category (A1) and a breakdown of offense-type by race (A2).

## Table A1. Crime Coding Classification

|  |  |  |
| --- | --- | --- |
| **Crime Type** | **Specific Offense** | **Number of cases** |
| **Murder** | *Total* | 80 |
| **Other Violent Crimes** | *Total* | 37 |
|  | Crimes with “battery”, “violence”, or “assault” | 11 |
|  | Sex crimes (including rape, child abuse, sexual assault) | 22 |
|  | Kidnapping | 1 |
|  | Reckless or accidental homicide | 3 |
| **Nonviolent Offenses** | *Total* | 76 |
|  | Drug possession | 40 |
|  | Illegal weapons possession | 10 |
|  | Robbery | 12 |
|  | Immigration | 4 |
|  | Car and traffic violations | 4 |
|  | Arson | 1 |
|  | SIDS | 1 |
|  | Bribery | 1 |
|  | Case issues (perjury, contempt, destruction of evidence) | 1 |
|  | Social media threats | 1 |
|  | Trespassing | 1 |
| **White-Collar Crimes** | *Total* | 19 |
|  | Financial Crimes (brank fraud, counterfeit, gambling, money laundering, insider trading, tax offenses, wire fraud) | 16 |
|  | Computer crimes | 1 |
|  | Extortion | 1 |
|  | Mail fraud | 1 |

## Table A2. Crime by Litigant’s Race.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **White** | **Black** | **Latino** | **Total** |
| *Murder* | 38 | 34 | 8 | 80 |
| *Other Violent Crime* | 19 | 12 | 6 | 37 |
| *Nonviolent Offense* | 40 | 19 | 17 | 76 |
| *White-Collar Crime* | 13 | 0 | 6 | 19 |
| *Total* | 110 | 65 | 37 | 212 |

# Section B. Determining Litigant Race

Litigant racial identity was determined by a combination of the authors’ search of online sources (e.g. case texts and news media) and Census records showing the percentage of individuals belonging to various racial groups with a litigant’s last name. We use Census-predicted race only for litigants whose last name is used by at least 75% of one race. For example, we were unable to find the race of litigant Patrick Day through our own research. According to Census records, 83.08% of all individuals with the last name “Day” are white. Because this is above our 75% threshold, Patrick Day is coded as white in our dataset and included in the models.

The tables below show how many litigants were added to our data based on Census records (Table B1), a comparison of how well Census records would predict the race of litigants whose race was determined by author research (Table B2), and the range of certainty for litigant’s whose race is predicted by Census records (Table B3).

## Table B1. Litigant Race Based on Author Research and Census Demographics

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  | **Race Predicted from Census Demographics** | | | | |  |
|  |  | White | Black | Latino | Other | Unknown | *Total* |
| **Author-Researched Race** | White | 58 | 0 | 2 | 3 | 7 | 70 |
| Black | 50 | 9 | 2 | 0 | 1 | 62 |
| Latino | 0 | 0 | 19 | 0 | 1 | 20 |
| Unknown | 41 | 2 | 17 | 0 | 0 | 60 |
|  | *Total* | 149 | 11 | 40 | 3 | 9 | 212 |

*Note.* Litigants with “other” race are dropped from data. The columns show the race as predicted by last name from Census records. Census-predicted race for litigants are only used in when litigant race was not found by other means and the racial category is predicted by 75% or higher certainty.

## Table B2. Percentage of Litigants’ Race Correctly Predicted by Census Demographics

|  |  |  |
| --- | --- | --- |
| **Author-Researched Race** | **% Correctly Predicted by Census Demographics** | **Total Number of Litigants** |
| White | 92.06% | 63 |
| Black | 14.75% | 61 |
| Latino | 100% | 19 |
| Total | 59.72% | 143 |

*Note:* The table only includes observations in the models (litigants hurt by the state or other race not included). This table does not include individuals whose race was determined via census only.

## Table B3. Litigants with Unknown Race Predicted by Census Demographics

|  |  |  |
| --- | --- | --- |
| **Litigant Racial Identity** | **Total Litigants Identified** | **Range of Certainty** |
| White | 41 | 75.28% - 99.09% |
| Black | 2 | 76% - .85.97% |
| Latino | 17 | 78.03% - 98.53 |
| Total | 60 | 75.28% - 99.09% |

*Note.* Table shows the number of litigants whose racial identity was predicted via Census records and the percentage of individuals with that last name who belong to the specified race. Names identified via Census were only used if the certainty was 75% or higher.

# Section C. Information about Dropped Cases

The tables below provide information about the cases that were excluded from the analysis. Dropped observations include: 1) 15 cases where litigants were hurt by the state rather than committing an offense (C1), 2) 10 litigants who were not white, Black, or Latino (C2), 3) 50 litigants whose racial identity could not be found by author research and did not meet the 75% threshold for Census-predicted racial identity (C2), and 4) 4 cases where race could not be determined (C3).

## Table C1. Citizens Hurt by the State

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Litigant** | **Case Name** | **Term** | **Litigant Race** | **Litigant Gender** |
| Antonio A. Hinojosa | *Scott Kernan, Secretary, California Department of Corrections & Rehabilitation v Antonio A. Hinojosa* | 2015 | Latino | Male |
| April Redding | *Safford Unified School District #1, et al. v Redding* | 2008 | White | Female |
| Drendolyn Sims | *Stanton v Sims* | 2013 | Unknown | Female |
| George R. Huff | *Darin Ryburn, et al. v George R. Huff, et al.* | 2011 | White | Male |
| Jeff Quon | *City of Ontario, California, et al. v Jeff Quon, et al.* | 2009 | Asian | Male |
| Lorenzo L. Jones | *Jones v Bock* | 2006 | Unknown | Male |
| Marciano Plata | *Edmund G. Brown, Jr., Governor of California, et al v Marciano Plata, et al.* | 2010 | Latino | Male |
| Max Rettele | *Los Angeles County, CA v Rettele, et al.* | 2006 | White | Male |
| Michael Gary Barber | *Michael Gary Barber, et al. v J. E. Thomas, Warden* | 2009 | White | Male |
| Naranjibhai Patel | *City of Los Angeles, CA v Patel* | 2014 | Asian | Male |
| Otis McDonald | *Otis McDonald, et al. v City of Chicago, IL, et al.* | 2009 | Black | Male |
| Ralph Baze | *Baze & Bowling v Rees* | 2007 | White | Male |
| Richard E. Glossip | *Glossip v Gross* | 2014 | Black | Male |
| Richard Lee Pollard | *Margaret Minneci, et al. v Richard Lee Pollard, et al.* | 2011 | Unknown | Male |
| Victor Harris | *Scott v Harris* | 2006 | Black | Male |

## Table C2. Comparison of Dropped Cases and Cases in Data

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  | **Other Racial Group** | **Below Census Racial Threshold** | **Cases in Dataset** |
| *Racial Group* | | | | |
|  | White | - | 82%  (41)  51.4% - 74.48% | 51.89%  (110) |
|  | Black | - | 12%  (6)  39.71% - 70.32% | 30.66%  (65) |
|  | Latino | - | 6%  (3)  43.4% - 71.33% | 17.45%  (37) |
|  | Asian/Pacific Islander | 30%  (3) | - | - |
|  | Middle Eastern/North African | 40%  (4) | - | - |
|  | Native American | 30%  (3) | - | - |
| *Crime Type* | | | | |
|  | Murder | - | 14%  (7) | 31.43%  (88) |
|  | Other Violent Crime | 50%  (5) | 20%  (10) | 18.57%  (52) |
|  | Nonviolent Crime | 30%  (3) | 60%  (30) | 40.71%  (114) |
|  | White Collar | 20%  (2) | 6%  (3) | 9.29%  (26) |
| *Gender* | | | | |
|  | Male | 100%  (10) | 96%  (48) | 96.75%  (268) |
|  | Female | - | 4%  (2) | 3.25%  (9) |
| *Total Cases* | | 10 | 50 | 277 |

*Note:* Other racial group includes all non-Black, White, or Latino litigants. Below Census Racial Threshold includes cases where the racial group had to be determined using Census records, but the cases do not meet our threshold of 75% of individuals with that last name belonging to a single racial group. Cases in the dataset include all cases where race could be determined either via author searches or Census records of last names (above 75% threshold).

For cases with litigants belonging to an “other” racial group, we ran models with and without these cases, and results are largely unchanged. However, we hesitate read too much of the findings for these litigants since so few cases belong to any specific racial/ethnic group.

The second column shows individuals whose race could be predicted by Census records of last names but fell below our 75% threshold. Compared to those in our final data, more litigants were predicted to be white (82%). This is unsurprising as Black and white Americans often share last names. Otherwise, the cases are roughly similar on the percentage of male litigants and of crime type. However, murder cases were underrepresented and nonviolent offenses overrepresented in the dropped data. This is likely because murder cases receive more media attention, making it easier to determine a litigant’s racial identity, while nonviolent offenses receive less media focus.

## Table C3. Litigant Race Unknown

|  |  |  |  |
| --- | --- | --- | --- |
| **Citizen Target** | **Case Name** | **Term** | **Crime Type** |
| Actavis Inc. a | *Federal Trade Commission v. Actavis, Inc., et al* | 2012 | White Collar |
| J. B. D. b | *J. B. D. v. North Carolina* | 2010 | Nonviolent Crime |
| Myriad Genetics Inc. a | *Association for Molecular Pathology, et al. v. Myriad Genetics, Inc., et al.* | 2012 | White Collar |
| Southern Union Co.a | *Southern Union Co. v. United States* | 2011 | White Collar |
| Taylor James Bloatec | *Bloate v. United States* | 2009 | Nonviolent Crime |

*Note a:* Actavis Inc., Myriad Genetics, and Southern Union Company are businesses. As an alternative, we determined their race and gender based on the C.E.O. The results are largely the same when these are included.

*Note b:* J. B. D. was a 13-year old boy suspected of breaking and entering. His identity was not released.

*Note c:* Bloate’s race was unable to be predicted using Census records as the name is too uncommon

Table C3 shows details of the cases where racial identity could not be determined at all and were also dropped from the data. These cases are unusual since three of the five are companies. We did a robustness check where we determined litigant race for these cases based on the race and gender of the C.E.O., and the results were largely unchanged. *JBD v North Carolina* did not release the litigant’s name as J.B.D. was a minor at the time. *Bloate v United States* was the only case where neither author searches nor Census records were able to determine racial identity.

# Section D. Descriptive Statistics

## Table D1. Descriptive Statistics

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Variable** | **Observations** | **Mean** | **Std. Dev.** | **Minimum** | **Maximum** |
| Justice Vote | 1814 | 0.449 | 0.498 | 0 | 1 |
| Justice Ideology*t*-1 | 1814 | 0.072 | 2.050 | -3.475 | 3.959 |
| White Litigant | 1814 | 0.514 | 0.500 | 0 | 1 |
| Black Litigant | 1814 | 0.309 | 0.462 | 0 | 1 |
| Latino Litigant | 1814 | 0.176 | 0.381 | 0 | 1 |
| Murder | 1814 | 0.375 | 0.484 | 0 | 1 |
| Other Violent Crime | 1814 | 0.174 | 0.379 | 0 | 1 |
| Nonviolent Crime | 1814 | 0.359 | 0.480 | 0 | 1 |
| White Collar Crime | 1814 | 0.091 | 0.288 | 0 | 1 |
| Death Penalty | 1814 | 0.266 | 0.442 | 0 | 1 |
| Woman Litigant | 1814 | 0.034 | 0.180 | 0 | 1 |
| State Petitioner | 1814 | 0.302 | 0.459 | 0 | 1 |
| Woman Justice | 1814 | 0.251 | 0.434 | 0 | 1 |
| Minority Justice | 1814 | 0.186 | 0.389 | 0 | 1 |
| Term | 1814 | 2011.079 | 3.748 | 2005 | 2017 |
| 4th Amendment | 1814 | 0.323 | 0.468 | 0 | 1 |
| 5th Amendment | 1814 | 0.083 | 0.275 | 0 | 1 |
| 6th Amendment | 1814 | 0.149 | 0.357 | 0 | 1 |
| 8th Amendment | 1814 | 0.088 | 0.283 | 0 | 1 |
| Criminal Law Statute | 1814 | 0.310 | 0.463 | 0 | 1 |
| Miscellaneous | 1814 | 0.047 | 0.211 | 0 | 1 |

# Section E. Qualitative Case Selection

To select the cases, we employed a multi-step process. First, we collected every opinion in our dataset, including their accompanying dissents and concurrences. Next, we skimmed the opinions. We were looking for cases that discussed the case facts in some detail. While appellate courts are directed to take the facts as given and resolve *legal* disputes, Supreme Court justices often engage in the facts quite thoroughly. Once we had this list, we categorized the opinions based on the themes our paper speaks to: race, crime, and the combination of the two. We read the opinions once again, this time looking for instances in which at least two justices presented the facts from contrasting positions. From this list, we took what we thought were the best illustrations of the themes.