Agenda Setting on the Warren Court

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The paper that follows is one of a series of papers I have written regarding agenda setting on the Warren Court. The papers on Warren Court agenda setting follow the pattern and topics of those I wrote on the Vinson Court's agenda setting. As each paper was completed updates and corrections sometimes changed a few of the specific numbers presented in papers that came earlier in the series. Even so, the general results for each paper did not change. The papers for the Vinson Court were eventually combined into a book titled, *Supreme Court Agenda Setting: The Vinson Court* (available on Amazon.com). The papers for the Warren Court will also be combined in a book to be titled *Supreme Court Agenda Setting: The Warren Court*. It will be available on Amazon.com in the summer of 2023. The book will use the final numbers after all the corrections and updates.

Agenda Setting on the Warren Court
Paper 14: Full and Summary Dispositions in Cases Granted Review

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Abstract

Prior papers in this series focused specifically on the Court's decision to grant review. Factors related to whether the Court grants review are also related to how the Court disposes of cases on the merits. More specifically, this study examines whether certain factors affect the Court's decision to summarily dispose of a case on the merits or to give it a full review.

Drawing from an ongoing database project this study examines all cases granted review during the Warren Court (1953 to 1968 Terms) on its appellate docket. Three basic factors are considered: whether the case was filed as a petition for a writ of certiorari or an appeal, whether the case was affirmed or reversed (including those vacated) by the Court, and whether the lower court decision was liberal or conservative. The results show a clear difference in disposition (summary or full) of cases on certiorari versus those on appeal. There was a statistically significant difference in the type of disposition between cases affirmed and those reversed as well as when the cases were separated into those on certiorari and those on appeal. There was also a difference in the Court's method of disposition depending on the ideological direction of the lower court decision with affirmed liberal lower court decisions.

Agenda Setting on the Vinson Court
Paper 14: Full and Summary Dispositions in Cases Granted Review

This is the fourteenth in a series of papers examining agenda setting on the Warren Court (1953-1968 Terms). This series of papers will follow the structure and topics contained in the series of papers I wrote examining agenda setting on the Vinson Court (1946-1952 Terms). As such, certain elements of the Vinson Court papers will be repeated in the corresponding papers for the Warren Court. The papers for the Vinson Court were eventually combined in a book titled, *Supreme Court Agenda Setting: The Vinson Court 1946 to 1952 Terms*, which is available in electronic form from Amazon.com.

The prior 13 papers in the series each examined whether a particular factor or set of factors was related to the Court's decision to grant review. As such, those papers contained information on the basic theoretical framework underlying that type of examination. In this paper I change focus somewhat and examine what the Court does with the cases it accepts for review. Rather than whether the Court granted or denied review to a case, the distinction being examined here is whether the Court disposed of it in a summary manner or gave it some form of full (plenary) review.

For every case filed the Court initially makes a review decision. If the Court grants review to the case, it must then make a decision on the merits. For most cases, there is a period of time between the grant of review and the decision on the merits. This is when the parties submit their briefs, arguments are heard, and the justices write their opinions. These are what I will refer to as "full dispositions" or "full review" regardless of the length of the actual opinion announcing the Court's decision. In contrast, for a substantial number of cases the Court grants review and issues a decision on the merits at the same time, often in a very short per curiam. Sometimes this

per curiam is as short as a single word (e.g., "Affirmed"). Even if the opinions for these "one and done" cases are a bit longer, they are what I refer to as "summary" dispositions.

Although the focus for this paper is on cases that have been granted review, the factors examined nevertheless relate to the Court's agenda setting. For example, in prior papers, particularly the second paper in the series,[1] we saw differences in Court's acceptance rate for cases coming before the Court on petitions for writs of certiorari versus those on technical appeals.[2] Although there are certainly mechanisms for the Court to deny review to cases on appeal, there did seem to be a greater obligation on the part of the Court to accept cases on appeal for review as opposed to those on petitions for writs of certiorari ("on certiorari").[3] To the extent that the Court is obligated to accept cases on appeal for review (or at least feels it is), it is reasonable for one to wonder whether the difference between cases on appeal and those on certiorari also affects how the Court disposes of them. More specifically, is the Court more likely to summarily dispose of a case on appeal than a case for which the Court has granted certiorari?

Stern and Gressman (1978, 377-379) provide some reasons why the Court might summarily affirm or reverse cases on appeal. Summary affirmance might be because the justices believe the decision below to be correct and no substantial issue on the merits has been raised. Summary reversal might be because the justices believe it is required by another case the Court

[1] The paper is titled, "Agenda Setting on the Warren Court, Paper 2: Certiorari and Appeal on the Warren Court Agenda."
[2] Cases come before the Supreme Court via two basic methods: petitions for writs of certiorari and appeals. Although I hesitate to wade too deeply into their differences, in brief cert petitions are discretionary, which means that the justices are free to grant or deny them as they see fit. No legal meaning is attached to a denial except that the Supreme Court chose not to hear the case. Technically, the Supreme Court must hear cases that come as appeals, but the justices may avoid review by indicating that a case was not properly presented as an appeal for one reason or another. The Court may then treat the appeal papers as a petition for a writ of certiorari and grant or deny the petition. See Perry (1991, Chapter 2) for more on the difference between cert petitions and appeals. See also Stern and Gressman (1978) for a more extended discussion of the topic. Of course, changes to the law in 1988 (Public Law No: 100-352) removed several categories of the Supreme Court's mandatory jurisdiction in appeals.
[3] Perry (1991, 29-32) speaks to this issue.

decided that is on point or that the decision below rested on a point that is "so unsubstantial as to be frivolous" (Stern and Gressman 1978, 378). Perry (1991, 100) echoes this latter point by noting the suggestion that summary reversals were appropriate when the lower court decision was so egregious that the justices could not let it stand but did not want to deal with it more fully.

In addition to the possible distinction between cases on certiorari and appeal, we might also wonder whether the Court is more likely to use a summary disposition when it plans to affirm the lower court case. In other words, the Court might be more likely to explain its decision reversing or vacating a lower court decision than when it affirms one. This might be particularly so for cases on appeal. Stern and Gressman do not address this question directly, but in discussing summary affirmances of appeals they note that "[w]hen the Court feels that the decision below is correct and that no substantial question on the merits has been raised, it will affirm an appeal from a federal court. . . ." (1978, 377). One might read into this statement that a similar case on certiorari would just be denied review. In addition, it would seem that should the Court wish to reverse a lower court decision the obvious question is why? Answering that question might still be done in a summary fashion (Stern and Gressman 1978, 378-379) but it is also reasonable to think that the Court would be more likely to issue a fuller explanation.

A final consideration worth examining is whether there was a difference in how the Warren Court disposed of cases based on whether the lower court decision was considered liberal or conservative. The thirteenth paper in this series considered ideological error correction as a factor in agenda setting.[4] The results presented in that paper found some instances when the ideological direction of the lower court opinion—liberal or conservative—was related to the Court's acceptance rates for certain types of cases. To the extent the direction of the lower court

[4] The paper is titled, "Agenda Setting on the Warren Court: Paper 13: Ideological Error Correction as a Factor."

decision might influence the Court's review decision, it is worth examining whether that direction is also related to whether the Court gives a full or summary disposition to the case.

Data

Data for this study were drawn from an ongoing database project involving all cases on the Supreme Court's appellate docket since the 1946 Term. Data are complete for the Warren Court (1953 through 1968 Terms) and provide a relatively stable period in which to examine the Court's docket.

Information on the cases was drawn from several sources including the *United States Law Week*, various reporters for the state and federal courts, LEXIS (now called NexisUNI), and other online sources. Every case filed on the Court's appellate docket during the 1953-1968 Terms is included in the dataset. This results in 15,858 cases. Unlike the examinations of the Vinson Court, not included in this number are any cases filed before the 1953 Term that were held over and received a 1953 Term or later docket number.[5] Included in this number are 308 cases that originally appeared on the Court's miscellaneous docket and were moved to the appellate docket.[6] There were 3,072 cases granted review and disposed of on the merits during

[5] Prior to the 1971 Term held over cases were renumbered at the start of each term and there was no two-digit term indicator. For example, *Brown v. Board of Education* was initially filed during the Court's 1951 Term and given the docket number 436. It was held over to the 1952 Term with the new docket number 8, and again for the 1953 Term with the docket number 1.

[6] Through the Vinson and Warren Courts, cases originating on the miscellaneous docket (sometimes referred to as the "pauper's docket") that were granted review were usually moved to the appellate docket (sometimes referred to as the "paid docket") and given a new docket number. The Expanded United States Supreme Court Judicial Database, Harold J. Spaeth principal investigator, lists 191 cases with a miscellaneous docket number (with an "M" in the DOCKET field, meaning they were not transferred to the appellate docket) during the 1953-1968 Terms. There are also three cases from the Miscellaneous Docket after the numbering changed. Of these 194 cases, 133 were granted some form of review (usually a short per curiam vacating or reversing), but are not included here. On the other hand, this dataset includes 107 cases initially filed on the appellate docket for which the Court granted *in forma pauperis* status to one of the parties (45 of which were granted review). (For this study I made use of an older version of the Supreme Court Database before it was moved online, which, as of this writing, can be viewed at http://scdb.wustl.edu.)

the Warren Court, but because of the differing criteria used for the tables to follow, the number of cases included for any given comparison will vary from that total number.[7]

An additional note on the coding for this examination is worthwhile before proceeding. The focus in this paper is on cases granted review and decided on the merits by the Court. That means that any cases granted review but then dismissed by a Supreme Court rule, which includes being dismissed on the motion of the petitioner, are not included. The primary distinction between "full" and "summary" disposition is drawn from examining the review and merits citations for the cases granted review. Thus, when the review and merits citations are the same the case is considered to have been disposed of summarily. If the review and merits citations are different the case is considered to have had a full disposition. The lack of time between the review and merits decisions is the key, rather than the actual length of the opinion announcing the decision on the merits.[8]

Regarding the dispositions of the cases to which the Court granted review the comparison will be between those cases affirmed and those cases the Court "reversed" which will include those that are either reversed, reversed and remanded, vacated, vacated and remanded, or affirmed in part and reversed in part (and possibly remanded). This division comports with the usage in the prior paper and Baum's language about cases reversed in whole or part (2022, 96). The ideological classification, liberal or conservative, of the lower court and Supreme Court dispositions follows the principles of Spaeth's coding for the United States Supreme Court Judicial Database.

[7] More specifically, one case on certification to the Supreme Court was not included in Table 1 and related tables. Similarly, there were several cases that did not fit into the "affirmed" and "reversed" categories for Table 2 and related tables.

[8] In a few instances the Court granted review to a case on certiorari or on appeal and then decided the merits in a signed opinion at the same time (e.g., *Stack v. Boyle* (1951)). This occurred so rarely, however, that the results of using the citation method for identifying summary or full dispositions was not affected.

The ideological classification, liberal or conservative, of the lower court and Supreme Court dispositions follows the principles of Spaeth's coding for the United States Supreme Court Judicial Database.

Results

Table 1 shows the number of full and summary dispositions for cases on petitions for writs of certiorari and on appeal for the Warren Court.

TABLE 1 ABOUT HERE

There were 2,072 certiorari cases granted review of which 1,607 (77.6%) were given full dispositions and 465 (22.4%) disposed of summarily. In contrast, of the 994 cases on appeal that were granted review 493 (49.6%) were given full dispositions while the remaining 501 (50.4%) were disposed of summarily. As indicated in the table, this difference in the dispositions between cases on certiorari and appeal was significant at $p < .001$ using a two-tailed difference of means test (Wonnacott and Wonnacott 1972, 178).

The much higher percentage of cases on appeal disposed of summarily (i.e., lower Full Disposition Rate) is consistent with the suggestion that the Court might be more likely to deal with appeals summarily because it has less discretion in whether to hear them. In addition to the method of disposition (full or summary) a related question is what the Court does with the cases substantively. Table 2 shows the disposition method for the cases the Court affirmed as well as the method for those cases the Court reversed.

TABLE 2 ABOUT HERE

Table 2 shows that of the 1,065 cases the Court affirmed, 656 (61.6%) were given a full disposition while 409 (38.4%) were disposed of summarily. The number of cases reversed was

greater at 1,994 and the number of these given a full disposition was 1,439 (72.2%). The Court summarily disposed of the remaining 555 cases (27.8%). This difference is highly significant at $p < .001$, and the higher percentage of full dispositions for cases reversed (which means a higher percentage of summary dispositions for cases affirmed) seems to fit with the idea that if the Court feels obligated to take some cases (e.g., appeals) it may not feel as great a need to explain when it affirms them. On the other hand, this seems to run counter to the notion that some cases so clearly should be reversed that an explanation is not necessary (Perry 1991, 100).

Given the results of Table 2 it makes sense to examine cases on certiorari and appeal separately. Tables 3 and 4 do this.

TABLE 3 ABOUT HERE

Table 3 examines the disposition of cases before the Court on certiorari. Here we see that the vast majority of certiorari cases—77.6% (1,605 of 2,068)—were given full review. Of course, that leaves 463 cases (22.4%) that were disposed of summarily. Of the cases affirmed by the Court, 507 of 542 (93.5%) were given full review. There were 1,526 certiorari cases reversed by the Court. Of these, 1,098 (72.0%) were given full review and 428 (28.0%) were disposed of summarily. The summary disposition percentage for reversed cases was somewhat low, but still much higher than it was for affirmed cases.

TABLE 4 ABOUT HERE

Turning to the cases on appeal, Table 4 shows that there were 992 of these cases and 491 (49.5%) were given a full disposition while 501 (50.5%) were disposed of summarily. The Court reversed 468 of these appeals and gave full review to 341 (72.9%) of them. The remaining 127 (27.1%) reversed cases were disposed of summarily. The percentage of summary reversals on appeal is slightly higher than for those on certiorari. In sharp contrast, however, are the cases on

appeal that the Court affirmed. There were 524 such cases and the Court gave full review to only 150 (28.6%) of them. Thus, the Court summarily disposed of 374 (71.4%) cases on appeal it affirmed.

The summary disposition of a majority of the cases on appeal that were affirmed is quite different from the cases on appeal that were reversed as well as the cases on certiorari, affirmed or reversed. At the very least, this result lends support to the notion that some of the cases on appeal to which the Court grants review are less likely to merit explanation when affirmed by the Court.

The thirteenth paper in the series focused on ideological error correction and found statistically significant differences in some aspects of the Court's grant of review related to whether the lower court decision was conservative or liberal.[9] Given the findings of that paper it is worthwhile to examine whether the ideological direction of the lower court decision is related to whether the Court disposes of a case in a full or summary manner.

TABLE 5 ABOUT HERE

Table 5 shows the comparison between lower court decisions that are liberal or conservative and whether they received a full or summary disposition. Of the 3,066 cases granted review 908 (29.6%) had a lower court decision that was liberal while the remaining 2,158 (70.4%) were conservative. Of the liberal lower court decisions, the Court gave a full disposition to 598 (65.9%) and a summary disposition to 310 (34.1%). Of the conservative lower court decisions, the Court gave a full disposition to 1,502 (69.6%) and a summary disposition to 656 (30.4%). That the Court was more likely to give a full disposition to a conservative lower court decision was statistically significant at the $p < .05$ level.

[9] As a reminder, the coding for "liberal" and "conservative" follows the principles of Spaeth's coding for the United States Supreme Court Judicial Database.

The next step is to separate the liberal and conservative lower court decisions to see how the court substantively disposed of them as well as whether they received a full or summary disposition. Tables 6 and 7 do this.

TABLE 6 ABOUT HERE

Table 6 examines the dispositions of cases with a liberal lower court decision. Of the 908 cases with a liberal lower court decision, 472 (52.0%) were affirmed and 436 (48.0%) were reversed. Although the distribution between cases affirmed or reversed was nearly even, whether they were given a full or summary disposition was not. Of the cases affirmed, 266 (56.4%) were given a full disposition and 206 (43.6%) were disposed of summarily. Of the cases with a liberal lower court decision that the Court reversed, 332 (76.1%) were given a full disposition while only 104 (23.9%) were disposed of summarily. The higher percentage of cases given full disposition that were reversed is statistically significant at $p < .001$. Again, the Court was more likely to issue summary dispositions for cases it affirmed than those it reversed.

TABLE 7 ABOUT HERE

Finally, Table 7 examines the disposition differences in cases with conservative lower court decisions. The Court granted review to 2,151 cases with a conservative lower court decision. Of these, the Court affirmed 593 (27.6%) and reversed 1,558 (72.4%). Although the distribution of the cases the Court affirmed or reversed was not as even for the cases with a conservative lower court decision as it was for those with a liberal lower court decision, it turned out that whether those cases received a full or summary disposition was much more so. Of the cases with a conservative lower court decision that the Court affirmed, 390 (65.8%) were given a full disposition while only 203 (34.2%) were disposed of summarily. Of the cases with a

conservative lower court decision that the Court reversed, 1,107 (71.1%) were given a full disposition and 451 (28.9%) were disposed of summarily.

Although less than five points separated the Court's full or summary disposition of conservative lower court decisions between those cases it affirmed or reversed, the difference did reach statistical significance ($p < .05$). It is also worth noting the percentages compared to the liberal dispositions from Table 6. In particular, notice that for the cases reversed, the percentage of cases given a full disposition was very close for liberal lower court decisions (76.1%) and conservative lower court decisions (71.1%). In contrast, the percentage of liberal lower court decisions that the Court affirmed to which the Court gave a full disposition was 56.4% but the percentage of affirmed conservative lower court decisions given a full disposition was 65.8%.

Discussion

Overall the results suggest that there were some differences in the types of cases to which the Court provided a full or summary disposition. The clear distinction in dispositions between cases on certiorari and those on appeal should not have been a particular surprise given what we know about the differences between those two methods of seeking Court review. Although there will likely be times when the Court feels the need to grant review to a case on certiorari but not necessarily explain the accompanying decision on the merits, the number of summary dispositions was greater for cases on appeal likely due to the lesser amount of discretion in the review of them. It will be interesting to see if this percentage changes when the Court is given more discretion in cases on appeal in later terms.

From Table 2 we saw that the cases reversed had a higher percentage of full dispositions than those affirmed. Interestingly, when cases on certiorari and those on appeal were examined

separately (Tables 3 and 4) we saw a significant difference in their treatment. Not only were the differences in each table statistically significant, but there were so in opposite directions. For cases on certiorari the Court was very unlikely to summarily dispose of a case it affirmed. In sharp contrast, for cases on appeal the Court summarily disposed of a large majority of the cases it affirmed. Aside from what this indicates about the Court's method of disposition, it is another example of the difference in the Court's treatment of cases on certiorari and those on appeal.

The final three tables examined the Court's method of disposition in relation to the ideological direction of the lower court decision. The results from Table 5 indicated that the Court was more likely to issue a summary disposition in cases with a liberal lower court decision. In looking specifically at those cases with a liberal lower court decision (Table 6) we saw that the Court was more likely to issue a summary disposition in the cases it affirmed. On the other hand, for cases with a conservative lower court decision the Court was only about four points less likely to summarily dispose of a case regardless of whether it affirmed or reversed the lower court. Of additional interest was that the Court was only about five points more likely to issue a summary disposition for cases with a conservative lower court decision between those it affirmed and those it reversed.

Before concluding this paper there are a few additional points worth mentioning. The first concerns the number of full versus summary dispositions. Although I did not emphasize the point, Table 1 shows that of the 3,066 cases on certiorari or appeal, 2,100 (68.5%) were full dispositions and 966 (31.5%) were summary dispositions. That percentage of full dispositions is much higher than Perry indicates for the terms he examined. More specifically, in his Figure 4.1 Perry shows that for many of the terms between 1970 and 1982 the summary dispositions outnumbered the plenary ones on both the paid and *in forma pauperis* dockets (1991, 99). In the

text he notes that a "common reason given for summary treatment implied that the increasing caseload required it" (1991, 100). Aside from any differences in coding between the data used here and that used by Perry, it is certainly true that the Court's caseload has increased dramatically since the Warren Court. The first few terms of the Warren Court had about the same number of cases filed as during the final terms of the Vinson Court, which was around 700. Although the 1956 Term topped a thousand cases at 1,004, it was not until the 1963 Term that another term had more than one thousand cases. The number filed grew more quickly in the remaining terms of the Warren Court until it hit a high of 1,343 for the 1968 Term. In contrast, by the 1970 Term (the first listed in Perry's figure) there were 1,589 cases on the paid docket and the number continued to grow, hitting a peak in the 1981 Term of 2,413.

Even with more discretion in whether to grant review to cases on appeal, the dramatically increasing number of cases filed suggests, as Perry notes, the possibility that a higher percentage of cases in the Burger Court era will be disposed of summarily.

A second point worth mentioning is whether the Court treated appeals from state and federal courts differently. More specifically, both Stern and Gressman (1978, 377-378) and Perry (1991, 30; citing Stern and Gressman) note that the Court will summarily affirm an appeal from a federal court but dismiss "for want of a substantial federal question" a similar case on appeal from a state court. To the extent this is true it presents a problem in terms of both the results presented here and those of prior papers in the series that considered differences between cases on certiorari and on appeal. On the other hand, during the Warren Court years the Court granted review and summarily disposed of 40 state cases on appeal and 4 of these were affirmed. During the same period there were 805 state cases on appeal that were denied review by the Court. Even if all of them were denied "for want of a substantial federal question," there is no

way of telling how many did not actually involve a substantial federal question versus the reason Stern and Gressman (and Perry) suggest.

The concern with the meaning of a rejection of a state case on appeal also raises the question of the meaning of a full versus summary disposition. The topic is primarily beyond the scope of this paper, but the short version is that a summary disposition of a case on appeal has precedential value, though perhaps not as much as a full disposition.[10] At a practical level, the written opinions of a full disposition provide explanation and guidance that a summary disposition does not, so it is not surprising that they would have greater value as precedent.

Of course, to the extent that the point of writing opinions is to clarify the law, Perry notes that some have criticized the use of summary dispositions (1991, 100). He also notes the justices' use of the convention of a "rule of six." This means that it takes the votes of six justices at conference to dispose of a case summarily. Perry notes that some justices regularly dissent from the use of summary dispositions on general principle (1991, 100), but the reasons for approving a summary disposition are varied. As noted previously, a prime reason for the use of summary dispositions, particularly in later terms, could simply be an increasing caseload (Perry 1991, 100). Also previously mentioned was the possibility that a case should so clearly be either affirmed or reversed that no further explanation is necessary (Perry 1991, 39 and 100). A third reason might be that although the justices could agree on a result, if the case were argued they might not be able to agree on reasoning (Perry 1991, 102).

Regardless of the reason for a summary disposition, it does put attorneys in a difficult situation. As Perry notes, although attorneys are advised not to argue the merits in their petitions, even some justices recognize that some discussion of the merits may be warranted, particularly given the number of summary dispositions (1991, 101-102).

[10] See Perry (1991, Chapter 2) for more on this topic.

Finally, despite the general dislike of summary dispositions by justices and attorneys, Perry notes that "[t]here are instances where summary judgments are clearly appropriate" (1991, 100 n6). These instances are where the Court reaches a decision in one case and then vacates and remands several others based on that case. Although not part of the Warren Court era, a good example of this was the Court's major obscenity decision in *Miller v. California* (1973). After announcing its decision in *Miller* the Court vacated and remanded many cases for lower courts to reevaluate in light of the newly announced test for obscenity. One could make a reasonable argument that vacating a decision in light of a case with a newly announced rule or procedure should be treated differently than others, and particularly summary reversals. I did not make that distinction for this paper, but it might be something worth examining in the future.

Vinson Court Comparison

At a basic level, six of the seven comparisons were in the same direction for the two Courts. All seven of the comparisons reached a traditional level of statistical significance for the Warren Court. Only five did for the Vinson Court, though one was just shy of the $p < .05$ level.

For the Warren Court, the percentages of full opinions for the cases on both certiorari and appeal were lower than for the Vinson Court (Table 1). The percentage was about 12 points lower for the cases on certiorari and about eight points for those on appeal.

When looking at the dispositions on the merits (Table 2), the percentages of cases affirmed and those reversed were also lower during the Warren Court, but the difference between the two was greater. For the Vinson Court the percentage of full opinions was about five points lower than those reversed. For the Warren Court the difference was about 10 points. As with the Vinson Court, separating the cases into those on certiorari and those on appeal (Tables 3 and 4)

showed the percentages move in opposite directions. Cases on certiorari that were affirmed had a higher percentage of full opinions than those reversed, but the difference was greater for the Warren Court. For the cases on appeal, the percentage of affirmed cases had a lower percentage of full opinions for both Courts, but, again, the difference was greater for the Warren Court.

The final three tables (Tables 5, 6, and 7) examined the ideological direction of the lower court decision and what the Court did with it. For both Courts, conservative lower court decisions had a higher percentage of full opinions by four or five points. Although the difference in percentages between the liberal and conservative decisions was about the same for both Courts, the percentages were again lower for the Warren Court by 12 to 13 points. When looking at the liberal decisions separately, the percentage of reversed cases had a higher percentage of full opinions. Once again, the percentages for the Warren Court were lower for both affirmed and reversed cases, and the difference between the two was greater for the Warren Court.

It was with the conservative lower court decisions that the two Courts were in opposite directions. The Vinson Court had a higher percentage of full opinions for affirmed cases, but by just over one point. The Warren Court had a higher percentage of full opinions for the cases it reversed. The difference was a bit less than five points, but enough to reach the $p < .05$ level of significance. Again, both percentages for the Warren Court were below those for the Vinson Court.

Conclusion

Although there were fewer examinations in this paper compared to prior ones, the results proved interesting and raised some questions for further study. At a minimum, it seems that the

increasing workload during the Warren Court may have forced a reduction in the percentage of cases receiving a full opinion. It will be interesting to see if those percentages decline further for the Burger Court given the increasing workload. If it does, then the results for the Burger Court may be a closer match to Perry's comments.

The increased liberalism of the Warren Court may have affected which cases received full or summary disposition, particularly when considering the ideological direction of the lower court decision. Along those lines, to the extent the Burger Court moved back to the middle we might see corresponding changes in how the Court handled liberal and conservative cases.

References

Baum, Lawrence. 2022. *The Supreme Court*, 14th edition. Washington, DC: CQ Press.

Brown v. Board of Education, 347 US 483 (1954).

Hagle, Timothy M. 2022. "Agenda Setting on the Warren Court, Paper 2: Certiorari and Appeal on the Vinson Court Agenda." Typescript.

Hagle, Timothy M. 2022. "Agenda Setting on the Warren Court Paper 13: Ideological Error Correction as a Factor." Typescript.

Miller v. California, 413 US 15 (1973).

Perry, H.W., Jr. 1991. *Deciding to Decide: Agenda Setting in the United States Supreme Court*. Cambridge, MA: Harvard University Press.

Spaeth, Harold J. 1998. *Expanded United States Supreme Court Judicial Database, 1946-1968 Terms*. [Computer file]. 4th ICPSR version. East Lansing, MI: Michigan State University, Dept. of Political Science [producer]. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 1999.

Stack v. Boyle, 342 US 1 (1951).

Stern, Robert L., and Eugene Gressman. 1978. *Supreme Court Practice*, 5th edition. Washington, DC: The Bureau of National Affairs.

Wonnacott, Thomas H., and Ronald J. Wonnacott. 1972. *Introductory Statistics for Business and Economics*. New York: John Wiley & Sons.

Table 1

Full and Summary Dispositions in Cases on Certiorari and Appeal for Cases Granted Review on the Warren Court's Appellate Docket

	Full	Summary	Row Total	Full Disposition Rate (%)
Certiorari	1,617	459	2,076	77.9%*
Appeal	506	489	995	50.9%
Column Total	2,123	948	3,071	69.1%

* $p < .001$, two-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 2

Full and Summary Dispositions for Cases Affirmed or Reversed on the Warren Court's Appellate Docket

	Full	Summary	Row Total	Full Disposition Rate (%)
Affirmed	667	398	1,065	62.6%*
Reversed	1,451	548	1,999	72.6%
Column Total	2,118	946	3,064	69.1%

* $p < .001$, two-tail difference of means test.

Table 3

Full and Summary Dispositions for Cases on Certiorari that were Affirmed or Reversed on the Warren Court's Appellate Docket

	Full	Summary	Row Total	Full Disposition Rate (%)
Affirmed	509	31	540	94.3%*
Reversed	1,105	426	1,531	72.2%
Column Total	1,614	457	2,071	77.9%

* $p < .001$, two-tail difference of means test.

Table 4

Full and Summary Dispositions for Cases on Appeal that were Affirmed or Reversed on the Warren Court's Appellate Docket

	Full	Summary	Row Total	Full Disposition Rate (%)
Affirmed	158	367	525	30.1%*
Reversed	346	122	468	73.9%
Column Total	504	489	993	50.1%

* $p < .001$, two-tail difference of means test.

Table 5

Full and Summary Dispositions for Cases with Conservative and Liberal Lower Court Decisions for Cases Granted Review on the Warren Court's Appellate Docket

	Full	Summary	Row Total	Full Disposition Rate (%)
Liberal	604	304	908	66.5%*
Conservative	1,519	644	2,163	70.2%
Column Total	2,123	948	3,071	69.1%

* $p < .05$, two-tail difference of means test.

Table 6

Full and Summary Dispositions for Cases with Liberal Lower Court Decisions that were Affirmed or Reversed on the Warren Court's Appellate Docket

	Full	Summary	Row Total	Full Disposition Rate (%)
Affirmed	270	202	472	57.2%*
Reversed	334	102	436	76.6%
Column Total	604	304	908	66.5%

* $p < .001$, two-tail difference of means test.

Table 7

Full and Summary Dispositions for Cases with Conservative Lower Court Decisions that were Affirmed or Reversed on the Warren Court's Appellate Docket

	Full	Summary	Row Total	Full Disposition Rate (%)
Affirmed	397	196	593	66.9%*
Reversed	1,117	446	1,563	71.5%
Column Total	1,514	642	2,156	70.2%

* $p < .05$, two-tail difference of means test.