Discretionary Disenfranchisement: The Case of Legal Financial Obligations

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Abstract

We examine the political consequences of conditioning ex-felon voting rights on the payment of legal financial obligations (LFOs). We study two states – Alabama and Tennessee – in which ex-felons cannot restore their voting rights until they have paid all court fees, fines, and restitution, plus child support in Tennessee. By randomly sampling court records of convicted felons in Alabama from 2005 - 2011, we estimate that the median amount of LFOs accrued is about $5,000 and that 85% have a non-zero balance. We expect that existing economic racial disparities will disproportionately reduce black ex-felons' ability to restore their right to vote. Consistent with this, we find that blacks are about 10 percentage points (p.p.) more likely to have a non-zero LFO balance in Alabama. Blacks are also about 16 and 12 p.p. more likely to have their voting rights applications denied due to LFOs in Alabama and Tennessee, respectively.

Court Records as Granular Public Records

- Electronic state-level court cases offer rich, publicly available, and individually-identifiable information that can be systematically matched to other local administrative data.
- We collected Alabama court records through an online interface known as Alacourt.

ALABAMA SJIS CASE DETAIL

County: **05**   Case Number: Court Action: **GUILTY PLEA**
Style: **STATE OF ALABAMA V.**

Real Time

Case

Case Information

County:	**05-BALDWIN**	Case Number:		Judge:	**REW-ROBERT WILTERS**
Defendant Status:	**JAIL**	Trial Type:		Charge:	**POSS MARIJUANA 1ST**
Related Cases:	**DC**			Court Action:	**GUILTY PLEA**
Probation Office #:		Probation Office Name:	**I03802**		
Jury Demand:	**False**	Traffic Citation #:		DL Destroy Date:	
Grand Jury Court Action:		Inpatient Treatment Ordered:	**NO**	Previous DUI Convictions:	**000**

Case Initiation

Case Initiation Date:	**02/23/2010**	Case Initiation Type:	**ARREST**	Offense Date:	
Filing Date:	**01/20/2010**	Agency ORI:		Arresting Agency Type:	**COUNTY**
Arrest Date:	**02/23/2010**	Arresting Officer:	**WINBERG**	City Code/Name:	**00**
Indictment Date:	**09/25/2009**	Grand Jury:	**9-163**	Domestic Violence:	**NO**

Defendant Information

Name:		Alias 1:		Alias 2:	
Address 1:		Address 2:			
City:	**BAY MINETTE**	State:	**AL** Zip:	Country:	
DOB:	/1979	SSN:	**XXX-XX-X496**	Phone:	**0**
Driver License N°:		State ID:		Eyes/Hair:	**BRO/BLK**
Height:	**5'11"**	Weight:		Race/Sex:	**B/M**
Youthful Date:					
AL Institutional Service Num:					

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Prosecutor 1	DIX008				
Attorney 1	SWE005	**C-CONTRACT**			

Financial

Fee Sheet

Fee Status	Admin Fee	Fee Code	Payor	Payee	Amount Due	Amount Paid	Balance	Amount Hold	Garnish Party
ACTIVE	N	CF00	D001		$256.50	$0.00	$256.50	$0.00	
ACTIVE	N	DRF2	D001		$60.00	$0.00	$60.00	$0.00	
ACTIVE	N	SO15	D001		$100.00	$0.00	$100.00	$0.00	
ACTIVE	N	CF10	D001		$250.00	$0.00	$250.00	$0.00	
ACTIVE	N	CF71	D001		$25.00	$0.00	$25.00	$0.00	
ACTIVE	N	CF72	D001		$25.00	$0.00	$25.00	$0.00	
ACTIVE	N	CF73	D001		$200.00	$0.00	$200.00	$0.00	
ACTIVE	N	SO75	D001		$30.00	$0.00	$30.00	$0.00	
ACTIVE	N	LCSF	D001		$21.00	$0.00	$21.00	$0.00	
ACTIVE	N	CF65	D001		$2,000.00	$0.00	$2,000.00	$0.00	
				Total:	$2,967.50	$0.00	$2,967.50	$0.00	

Searching Court Records

- We collected two different random samples – at the case-level and individual-level – using two different search queries.

Sampling Court Records

- We used systematic sampling to first collect a sample of 8,372 circuit court cases, 3,452 of which contained at least one felony conviction.
- We then randomly sampled 1,000 people convicted of a felony between 2005 - 2011. For each of these records, we extracted the convicted felon's full name and date of birth and used the party search query to find and download all related cases in Alacourt.
- Because our individual-level sample is drawn from our case-level sample, this means that people convicted of felonies in multiple cases will be also be overrepresented in our individual-level sample. However, if we know π_i – the probability that convicted felon i was selected into the individual-level sample – for all i that were ultimately selected into our individual-level sample, we can account for this overrepresentation by weighting observations by $\frac{1}{\pi_i}$ when conducting individual-level analyses.
  - π_i is the product of $\pi_{i,1}$ – convicted felon i's probability of being selected into the case-level sample (1) – and $\pi_{i,2|1}$ – convicted felon i's probability of being selected into the individual-level sample (2) conditional on being selected into the case-level sample (1). To calculate $\pi_{i,1}$, we first calculate $n_{i,j,y}$ – the number of integers between 1 and 51 that would have caused convicted felon i to be selected into the case-level sample in district j and year y – using our knowledge of the case numbers in which individual i was convicted of at least one felony. $\pi_{i,1}$ is equal to $1 - \prod_j \prod_y (1 - \frac{n_{i,j,y}}{51})$. To calculate $\pi_{i,2|1}$ we define c_i as the number of cases in which individual i was convicted of a felony that were included in the case-level sample. $\pi_{i,2|1}$ is equal to $1 - \prod_{j=1}^{c_i} (1 - \frac{1,000}{2,849+1-j})$.

## Alabama Application Records Linked to Alabama Court Records

- Court records help us understand restoration of voting rights decisions

	Name								LFOs	LFOs	Sentence	Sentence
	First	Middle	Last	DOB	Decision	Comment	Race	Sex	Assessed	Balance	Imposed	Suspended
					Denied	Owes money	Black	Male	$5030	$2510	5Y	0Y
					Approved	–	White	Male	$2070	$0	2Y	2Y
					Denied	Owes money	—	—	—	—	—	—
					Denied	Other	Black	Male	$4230	$4230	1Y	1Y

Quantities of Interest

- We conceptualize that an LFO is disenfranchising when it is the sole criteria that prevents someone who would otherwise vote from voting. To formalize this logic, let
  - $LFO_i = 1$ if convicted felon i owes LFOs to the state
  - $D_i = 1$ if convicted felon i has satisfied all other requirements to be eligible to restore their voting rights (e.g., completed their entire sentence)
  - $V_i = 1$ if convicted felon i would vote if eligible
  - $B_i = 1$ if convicted felon i is African-American
  - X_i be a vector of individual-level characteristics that we wish to condition on
- Ideally, we would estimate
  $p(LFO_i = 1 \mid D_i = 1, V_i = 1, B_i = 1, X_i) - p(LFO_i = 1 \mid D_i = 1, V_i = 1, B_i = 0, X_i)$
  which captures the differential probability that an African-American and non-African-American is prevented from voting because of LFOs.
- Because none of our datasets contain all of the information we need to estimate this exact quantity of interest, we instead estimate a series of related quantities.
  - Case-level: $p(LFO_c = 1 \mid B_c = 1, X_c) - p(LFO_c = 1 \mid B_c = 0, X_c)$
    The downside with a case-level analysis though is that it limits us to individual-level characteristics that are constant across cases.
  - Individual-level: $p(LFO_i = 1 \mid B_i = 1, X_i) - p(LFO_i = 1 \mid B_i = 0, X_i)$
    Using these individual-level data allow us to better measure whether a convicted felon has an outstanding LFO balance – on a representative sample after weighting.

Alacourt Case-Level Results
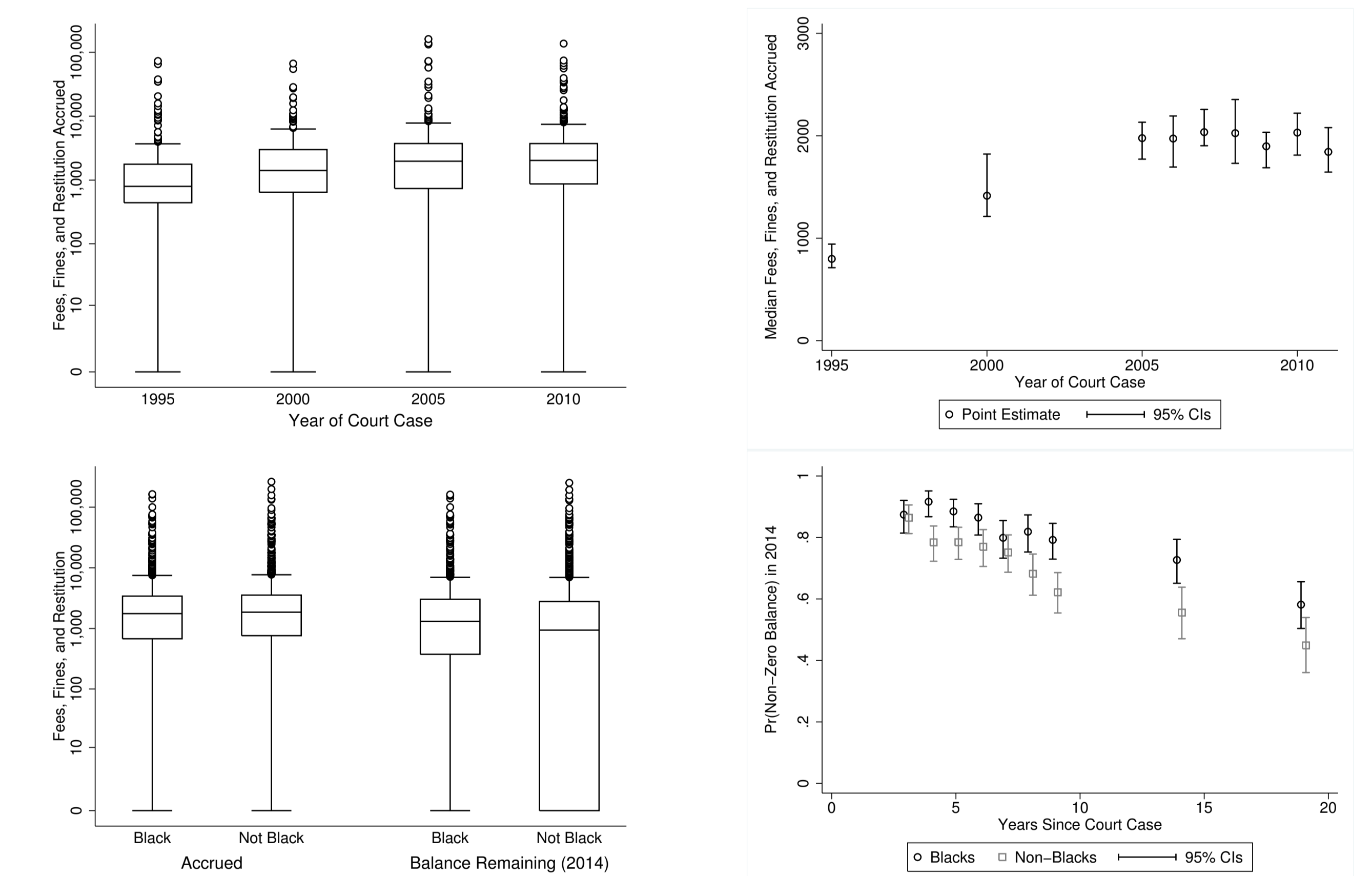
Alacourt Individual-level Results

	Estimated Pop. Size	% Imposed Sentence	% Max Sentence Expired	Percentile of Total LFOs Accrued 25th	Percentile of Total LFOs Accrued 50th	Percentile of Total LFOs Accrued 75th	Percentile of LFO Balance 25th	Percentile of LFO Balance 50th	Percentile of LFO Balance 75th	% LFO Balance
All (N = 993)	92,032	0.759	0.402	2,260	4,981	10,453	681	3,242	8,114	0.847
	(1,546)	(0.016)	(0.018)	(125)	(256)	(507)	(131)	(225)	(438)	(0.014)
Blacks (N = 445)	41,692	0.776	0.348	2,549	5,236	10,605	1,173	3,643	9,127	0.899
	(1,008)	(0.023)	(0.026)	(254)	(354)	(879)	(220)	(399)	(563)	(0.017)
Non-Blacks (N = 548)	50,340	0.745	0.447	2,148	4,669	10,036	371	2,555	6,955	0.804
	(1,173)	(0.022)	(0.024)	(145)	(366)	(643)	(122)	(310)	(681)	(0.020)
Difference		0.030	-0.099	401	567	569	802	1,088	2,172	0.095
p-value on H_0: Difference = 0		0.345	0.005	0.173	0.272	0.555	0.003	0.014	0.012	0.000