

Spoilers and Signatures: Ballot Access and Third Party Performance

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Abstract

Third parties and independents face several hurdles to success in the United States because of the two-party system. One of those hurdles is state ballot access laws, which place obstacles in the way of minor candidates that major-party candidates do not face. Research into the phenomenon of third-party performance has shown that third-party candidates do better in non-competitive races when the possibility of causing the spoiler effect is small. But very little research exists to show how much of a difference those requirements make, or if the number of candidates on the ballot is correlated to overall third party support. Using county-level results for the 2016 presidential election, where both major party candidates were historically unpopular, my analysis studying the third-party candidacies of Gary Johnson, Jill Stein and Evan McMullin seems to confirm the hypothesis that third-party candidates usually perform better in non-competitive races than in ones where they could act as a spoiler and that that less-restrictive ballot access laws increase the number of candidates. However, it seems to reject the hypothesis that the amount of support for third-party voters is not a function of the number of candidates presented to voters.

Introduction

The United States has had a two-party system ever since the formation of political parties as a result of the opposing visions of the Federalists and Anti-Federalists in George Washington's administration. However, for brief periods, third parties and independent candidates (referred to hereafter as "non-major party" parties and candidates) have arisen on the national political scene to upset the status quo, resulting in changes to the political and party systems that last beyond their brief period of electoral relevancy. The impact of non-major party candidates and parties has led to measures to curtail their effectiveness, such as by removing electoral fusion as a mechanism to build support (Scarrow, 1986), creating high thresholds for appearances in presidential debates (Lieberman, 2015) and ballot regulations seemingly designed to make it difficult for non-major party candidates to be listed (Burden, 2007).

Even though the plurality system used in the United States favors a two-party system (Abramson et al., 2000), the established parties fear the entry of non-major party candidates into races and will seek ways to prevent their entry (Lee, 2012). But that has not stopped such candidacies in the past and will almost certainly not prevent a future non-major party candidate from becoming "successful" —that is, winning five percent of the national popular vote (Abramson et al., 2000), at which point those campaigns win matching federal election funds. With the last such "successful" candidate being Ross Perot in 1996, why did no such candidate emerge in the 2016 presidential election, despite both major-party candidates being historically unpopular?

Literature Review

The current research on non-major party candidates can be divided into multiple areas of study that can be synthesized to gain an accurate picture of the overall research on this topic. One is an overview of the ballot rules that work to the disadvantage of non-major party candidates. The second is an overview of the campaign finance rules. Another are the mechanical and psychological factors resulting from the United States' use of a plurality voting and winner-take-all system in all but two (Maine and Nebraska) states in the Electoral College. Another is the base of voters who are willing to break from the two-party system to support outside candidates. Furthermore, case studies of successful or un-successful non-major party candidates can prove instructive on the reasons for non-major party candidates' success or failure.

Ballot rules

The first hurdle that non-major party candidates encounter, regardless of running at either the state or federal level, are ballot access laws. Usually, these take the form of a required number of signatures supporting a candidate, or passing certain thresholds of support in previous elections by a party or individual candidate (if that candidate is running for the same office again). Burden (2007) found that states with higher signature requirements (as a percentage of their registered voting population) tend to have fewer non-major party candidates on the ballot than states with lower signature requirements (again as a percentage of their population of registered voters).

One method that is closed to most non-major party candidates is electoral fusion, which would allow multiple parties on a ballot to list the same candidate, pooling the votes for that candidate. It was outlawed in many states as a result of non-major parties' successful use of

fusion voting to grow at the expense of the major parties and ability to elect officeholders (Scarrow, 1986). The inability of non-major parties to use electoral fusion is, in large part, responsible for the poor down-ballot performance by the Progressive Party in the 1912 elections, despite their presidential candidate, former president Theodore Roosevelt, coming in second in both the Electoral College and national popular vote. That subsequent successful non-major party candidacies, from Robert La Follette in 1924 to Perot in 1996, have all been individual insurgents and not part of a larger, established non-major party organization seems to support the interpretation that the current system of ballot laws in the United States is not conducive to the establishment of large third parties on a federal level.

Presidential candidates, providing they can get ballot access in enough states to be considered viable (at the very least meaning they have the theoretical ability to win 270 electoral votes), face further hurdles. The restrictive criterion for inclusion in the presidential debates, a key marker of being a serious candidate for the presidency, were listed in an article by Lieberman (2015), where the former senator decries the Commission on Presidential Debates for making it highly unlikely that a non-major party candidate will take part in the debates alongside the Democratic and Republican nominees.

Campaign financing

Non-major party candidates face formidable financial hurdles, the largest of which are the cost of running for the presidency on the level of the major party nominees. An article by Choma (2013) shows the increasing expenditures in every presidential election cycle between 2000 and 2012 and estimates that Barack Obama's 2012 campaign alone spent \$737.9 million, even without any serious challengers for his party's nomination.

Potters and Tavits' (2015) finding that increased fund parity (a measure of how likely it is that parties of all sizes will have similar access to campaign resources) correlates with larger party system size shows why this system disadvantages non-major party candidates who do not have access to established donors or major-party fundraising resources. Public financing, which could help ensure fund parity, has effectively been removed as a serious option in the United States for the foreseeable future. This stems from the Supreme Court's decision in *Davis v. FEC* (2008) that ruled a limitation on the amount one candidate could spend on their own election campaign unconstitutional (Esenberg, 2010), as few candidates are willing to limit the amount of funding they receive, which is the case if they opt to receive public financing of their campaign.

Garrett (2015)'s exploration of the current state of public financing in the era of both *Citizens United* (which ruled that political spending is protected under the First Amendment-effectively removing limits on individual, corporate or union election spending) and *McCutcheon v. FEC* (which found aggregate donation limits to be unconstitutional) shows the extent to which major attempts by Congress to "get money out of politics" or "level the playing field" have been reversed or rejected by the Roberts Court. However, Esenberg (2010) notes that the trend of self-financed political candidates (such as Perot, Steve Forbes and Donald Trump) began following the Court's decision in *Buckley v. Valeo* (1976) which struck down limits on the amount of spending by individual citizens and campaigns, which opened up some avenues for a certain kind of non-major party candidates.

Mechanical and psychological factors

Mechanical factors

Duverger's law (that plurality voting systems will result in a two-party system) has a long history in political circles before being formally expressed by Duverger in 1963 (Riker, 1982).

Subsequent study has sought to explain states like India and Canada that have both single-member districts with plurality voting, but multiparty systems. Riker (1982) modified the law to account for national third party/parties being one of the top two parties on a local level as well as the Condorcet winner (candidate who would win a two-person race against each opponent individually). Another side effect of plurality elections, the spoiler effect, can also work to the disadvantage of non-major party candidates, as seen in Nelson's (2015) findings that voters are more likely to support non-major party candidates in lopsided races where the spoiler effect is very unlikely to come into play.

The Electoral College system is a major factor behind voter behavior in American presidential elections, and the fact that a vast majority of states use plurality rules to allocate their electoral votes "creates an additional obstacle to third-party and independent candidates" (Abramson et. al, 1995). In spite of trends since the 1960s allowing for more states to be competitive on the presidential level (Johnson, 2005), the system of choosing electors make it all but impossible for non-major party candidates to win the presidency. In spite of this, because of the arcane rules of the Electoral College, authors who clearly disapprove of the institution can advance plausible scenarios of non-major party runs in the post-*Citizens United* era resulting in the offer of financial payment for electors to vote for candidates who did not win their states (Williams, 2015) and the issue of "faithless electors" came into public view in the 2016 election, where both Donald Trump and Hillary Clinton lost electoral votes to candidates who did not even run for president after Trump's surprise victory despite losing the popular vote.

Since third parties with a serious possibility to influence electoral results are scarce in the modern United States, there has not been a lot of research into the effects they have on the major parties. Major party anticipation and work to prevent non-major party candidates from achieving

electoral success is defined, paradoxically, by Lee (2012) as a measure of their impact. Lee finds that with areas of higher threat of third-party entry, there is more party divergence, or more diverse views expressed by a given party's candidates for office.

Psychological factors

Psychological factors are an important part of what keeps the two-party system strong in a plurality-rules electoral system. The "wasted vote" argument (that votes for non-major party candidates are effectively "wasted" because they cannot plausibly get elected) is particularly strong in the United States, as is American political socialization to accept the two-party system as natural (Abramson et. al, 1995).

Another important factor relating to the psychology regarding non-major party support is media coverage. Gold (1995) found this to be a major reason for Ross Perot's 1992 campaign being more successful than John Anderson's 1980 presidential campaign, as Perot was able to maintain a consistent (self-financed) media presence after the major party nominating conventions maintained the appearance that he was a viable candidate for the presidency.

Voter support

A consistent finding in researching the types of voters who are more likely to vote for non-major party candidates is that weaker identification with the two major parties corresponds to a higher likelihood of voting for non-major party candidates (Abramson, et al., 2000; Buchanan, 2015; Gold, 1995; Johnson, 2005; Peterson & Wright, 1998). Another consistent finding is that support for non-major party candidates is higher when one or more of the major parties offer "defective candidates" who are unappealing to the electorate as a whole (Abramson et. al, 2000; Reiter & Walsh, 1995). Nelson (2015) also found that voters who had previously

supported non-major party candidates were more likely to support non-major party candidates in the future.

Research seems to indicate, however, that there is no “alternative culture” of disaffected voters who make up non-major party voters (Reiter & Walsh, 1995), although Burden (2007)’s finding that non-major party support is consistent regardless of the number of candidates on the ballot might conflict with this.

Case studies

Reiter and Walsh (1995), in their case study of three elected New England non-major party candidates from the 1970s to early 1990s found that successful electoral coalitions were unique to each candidate on the basis of ideology and political affiliation. The study also found that all three benefitted from weak candidates put forth by the major party ideologically closest to their views.

On the presidential level, several non-major party candidacies were studied: the Strom Thurmond’s run as the Dixiecrat nominee (Buchanan, 2015) and George Wallace, John Anderson and Ross Perot (Abramson et al., 1995). Perot, as the most successful non-major party presidential nominee since Theodore Roosevelt (in terms of percentage of the national popular vote) has been studied (Gold, 1995) in an effort to understand how he achieved winning nearly 20 percent of the popular vote in spite of the aforementioned obstacles his non-major party campaign faced. Perot’s wealth and his rallying of disenchanted white Middle Americans (Judis, 2015) were found to be the major reasons for his success—a combination that would lead to a successful presidential campaign by a major party in 2016 with the election of Donald Trump.

Research question

The 2016 presidential election was, at a glance, the ideal political environment for the emergence of a post-Perot “successful” non-major party candidate. Both major party presidential nominees (Trump and Hillary Clinton) were historically unpopular (Saad, 2016), and at least one party (the Libertarians) nominated two former state governors (Gary Johnson for president and William Weld for vice president). Another non-major party challenger, independent conservative Evan McMullin, emerged relatively late in the campaign but remained in contention to win his home state of Utah in the final days of the campaign.

But no non-major party candidate succeeded in winning five percent of the national popular vote and McMullin failed to be the first non-major party candidate since George Wallace in 1968 to win a state. What factors could explain why neither of those events happened?

Methods and Analysis

Data

To tackle this question, I obtained county-level and state-level election results from all states except Alaska (who did not record their results by county-level) and the District of Columbia.

In addition to the election results, I obtained demographic data on each county from the 2010 United States Census as well as electoral rules in each of the 49 states and District of Columbia regarding the number of signatures necessary for an independent or third-party candidate to be put on the ballot. I also obtained the number of candidates printed on each state’s ballot during the 2016 presidential election cycle as well as the ballot status in each state of each of the three candidates who I chose to analyze below.

Hypotheses

Using this data, I wanted to test three separate hypotheses to see if the results of the 2016 election matched what previous research into third-party performance at the presidential level had found.

My first hypothesis was that non-major party candidates would have higher support in counties in non-competitive states than in counties in competitive states.

The second hypothesis was that a lower ratio of signatures necessary for a candidate to be listed on the state's ballot compared to the state's population of eligible voters would see more candidates on the ballot. But, this would not see a significant change in support for non-major party candidates compared to states with fewer candidates.

Finally, the third hypothesis I wished to test was that as median age decreases, support for non-major party candidates will increase.

Variables

First and third hypotheses

To test these two hypotheses, I first operationalized the concept of a “battleground state” by going beyond the standard definition of a state where the popular vote margin is less than five percentage points (Hetherington, 2010) in the previous election cycle (in this case, 2012) to where the margin of victory was 10 percentage points. I did this both to include states that could very well have been “swing states” until late in the campaign as well as to include states that were universally agreed upon as “swing states” in 2016 that would have been excluded under this criterion. Then, I obtained the ballot access status of each candidate listed below, operationalized on a scale from 2 (“on ballot”) to 1 (“write-ins allowed”) to 0 (“not on the ballot/no write-in access”) that would serve to examine just how much ballot access itself

counted for each candidates' performance. I then operationalized state battleground status as a dummy variable with battleground states given a value of 0 and non-battleground states given a value of 1. I obtained several racial variables, including percentage of each county that identified as either white, black or African-American or Hispanic/Latino(a) that would test to see if there was a racial element to third-party support. I included other factors such as population density, median age (which doubled as a proxy for partisanship due to the well-established link between the two variables), percent of adults who had graduated college and median income. Because of the wide range of values for both median income and population density, I used the logarithmic value (with a base of 10) for those numbers to prevent a skew in analysis. These four variables were chosen to see if there were any socioeconomic factors outside of race that helped to determine third-party support.

The dependent variables for this were the percentage of the vote won by non-major party candidates overall as well as three different candidates: Libertarian Gary Johnson, Green Jill Stein and independent Evan McMullin. In the case of Stein and McMullin, I excluded all cases where they had no ballot access (coded "0" on the relevant ballot access variable) during analyses of their performance. By using these dependent variables, I hoped to gain an understanding of what similarities all three non-major party candidates had in the election and which differences in support were due to their different ideologies and appeal.

Second hypothesis

To test this hypothesis, I first operationalized a way to measure the ratio of signatures necessary for a candidate to get on the ballot out of the eligible voters in a state, which I will later refer to as a state's "signature ratio". I did this by dividing the number of signatures necessary by the state's total population of eligible voters and multiplying the results by 1,000.

This is last step prevents problems that could develop in the analysis if the signature ratio were not adjusted to scale in a similar fashion to the other variables. Another variable used were the number of candidates printed on each state's ballot.

I used two dependent variables. For the first part of this hypothesis, I used the number of candidates on each state's ballot, and for the second part, the total percentage of each state's vote that went to non-major party candidates. By using these variables, I hoped to find out if the signature ratio in a state affected the number of candidates presented to voters and if the more choices given to voters truly did not matter in how much support non-major party candidates received in total.

Results

Hypothesis One

The first hypothesis tested was that non-major party candidates would have higher shares of the vote in counties in non-battleground states than in counties in battleground states.

(Table 1 about here)

As the results in the table show, it seems that this hypothesis was correct. Non-major party candidates overall (labelled "Third party total" in Figure 1) gained around one-half of a percent more of the vote in non-battleground states than in battleground states. Similarly, all three individual candidates had higher mean vote totals in counties in non-battleground states than in counties in battleground states. The very high P-values for all four tested cases seems to show a very strong correlation between better performance as a candidate on the ballot compared to one solely with write-in access.

Hypothesis Two

Testing the second thesis required two stages of testing: the first to determine if a higher signature ratio does indeed correlate to fewer candidates appearing on an election ballot and the second if the number of candidates on the ballot has any effect on the total percentage of votes given to non-major party candidates.

(Figure 1 about here)

The first part of the hypothesis clearly seems to have been corroborated, especially with the trendline shown in Figure 1. Although the magnitude of the slope was potentially skewed by an outlier (Colorado, which had 22 total candidates listed for president in 2016), a negative relationship clearly exists between a state's signature ratio and its total number of presidential candidates listed.

(Figure 2 about here)

(Figure 3 about here)

Similarly, Figure 2 appears to show that there is a relationship between the number of candidates on a state's ballot and the total non-major party candidate (labelled "total third party" in Figure 2) vote. However, it appears to be skewed significantly by the inclusion of Utah, where Evan McMullin won over 20 percent of the vote- a higher proportion than voted for all non-major party candidates combined in each other state. Figure 3 shows the effects of removing Utah from the calculations, which most notably is the coefficient going from an additional .298 percent of the non-major party candidate vote gained for each additional candidate down to .125 percent gained for each additional candidate.

Despite the decrease in the sharpness of the slope, however, Figure 3 still shows a positive relationship between the number of candidates and the total non-major party candidate vote share, seeming to disprove the hypothesis, or at least this section of it.

Hypothesis Three

The final hypothesis centered on the relationship between median age and non-major party candidate support. However, in the regression analysis in Table 2, I included eight other variables, including state battleground status as well as ballot access as well as demographic variables. As Gary Johnson had full ballot access in all 50 states and the District of Columbia, the variable used to denote his ballot access status was excluded from the regression analysis.

(Table 2 about here)

Results of the regression seem to validate the hypothesis, with total non-major party support (labelled “Third party (general)”), as well as support for both Gary Johnson and Evan McMullin, have a negative relationship with median age. However, support for Jill Stein has a small positive relationship with median age. This result could very possibly be due to the constituencies of support that Stein as an individual candidate attracted.

This explanation seems to have some merit based on other results from the regression analysis. While support for Stein conforms to the same directional relationship as the two other candidates and non-major party candidates in general on several variables, including ballot access, state battleground status, college education and all three racial variables, it is correlated with the opposite relationship in two other demographic variables. In both population density and median income (both logarithmic values), support for Stein is negative when the other three are positive (median income) and positive when the other three are negative (population density), although the latter variables’ support for Stein is not statistically significant.

Conclusions

In my testing of previous research, I found a mix of hypothesis that were seemingly validated and those that were partially challenged by my results. My research seems to clearly

show the relationship between state battleground status and third-party performance as well as the relationship between that support and ballot access. In addition, the role of signature ratios to the number of candidates on a ballot also seems to have been corroborated by my analyses. The idea that there was no relationship between the number of candidates on a ballot and the resulting total third-party vote share, however, does not seem to be corroborated by my results. The issue of median age having a negative relationship with third-party voting also seems to be partially undermined by the positive relationship shown between support for Jill Stein and median age, however further analysis might be needed to determine if this is a result of Stein's individual candidacy or if it is significant enough to disprove the trend.

These results provide some understanding of the trends in third-party voting in the 2016 presidential election, testing hypotheses previously expounded in previous research. Further analysis by myself or others will have to be done to determine if the 2016 electoral results for third-party candidates are a historical outlier or if they correct, wholly or partially, assumptions that were formulated before that tumultuous election.

Appendix

Table 1

Crosstabulation of Mean Candidate Vote Percentage by State Battleground Status			
		Battleground status	
		Battleground	Not battleground
Gary Johnson	Mean	2.94	3.27
	N (counties)	1,177	1,936
Jill Stein	Mean	.66	.87
	N (counties)	1,159	1,740
Evan McMullin	Mean	.52	.87
	N (counties)	992	1,366
Third party total	Mean	5.04	5.59
	N (counties)	1,177	1,936

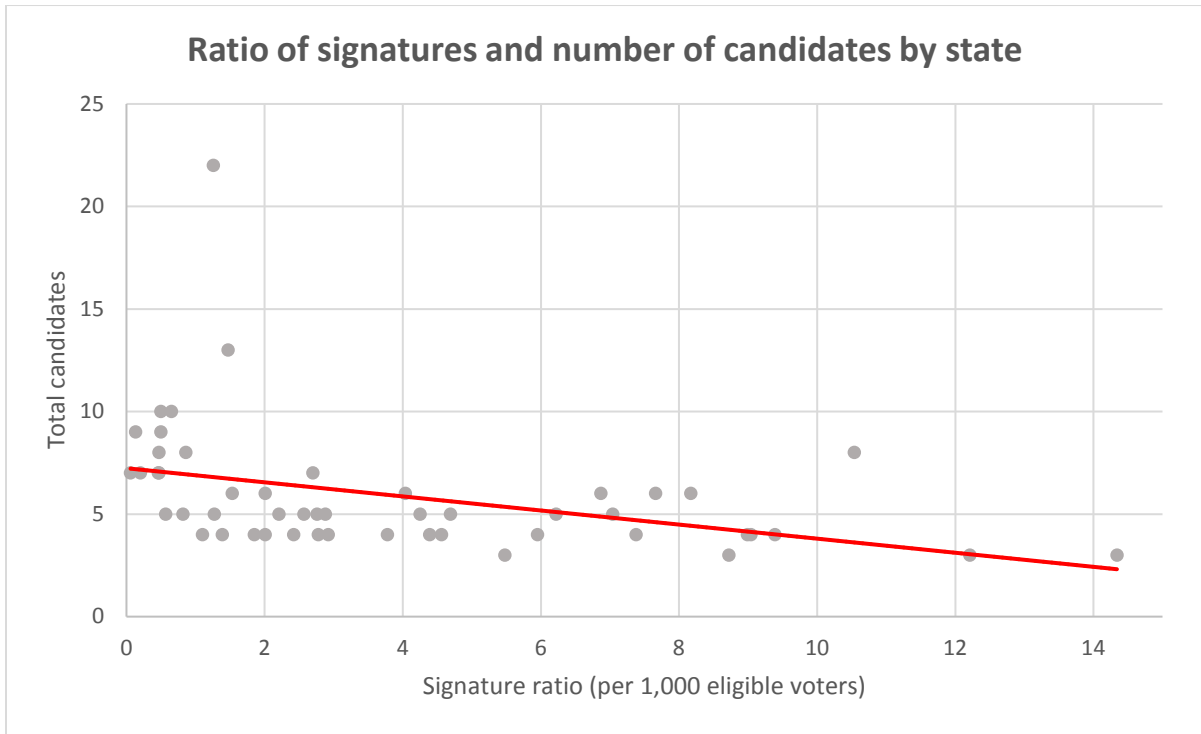
Third Party total: Chi-Square=1840.739, P=.000, Cramer's V=.314

Johnson: Chi-Square=831.964, P=.000, Cramer's V=.517

Stein: Chi-Square=555.672, P=.000, Cramer's V=.438

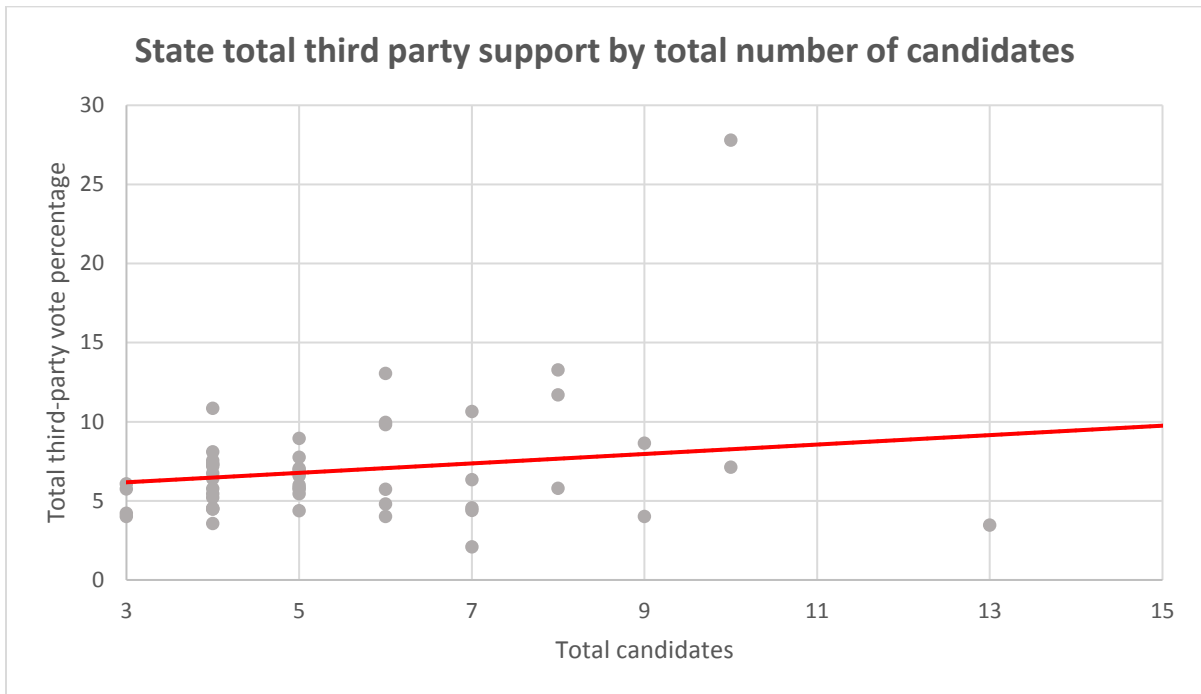
McMullin: Chi-Square=345.912, P=.003, Cramer's V=.383

Figure 1



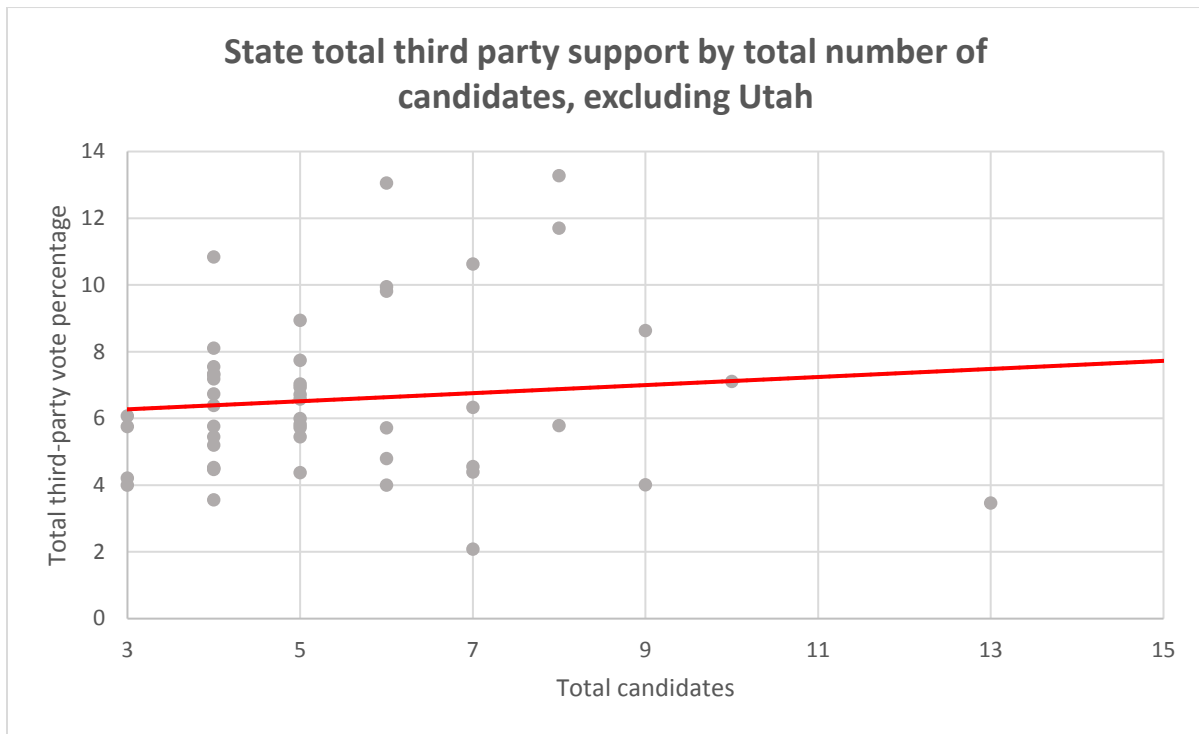
$R=.379$, $R^2=.144$, Coefficient=-0.340

Figure 2



$R=.241$, $R^2=.038$, Coefficient=.298

Figure 3



$R=.149$, $R^2=.022$, Coefficient=.125

Table 2

Regression Analysis of Factors of Third Party Support				
Independent Variables	Third Party (general)	Gary Johnson	Jill Stein	Evan McMullin
Median age	-.151*** (-13.694)	-.022*** (-4.133)	.012*** (5.333)	-.164*** (-16.853)
State battleground	.244* (2.570)	.184*** (4.025)	.123*** (6.280)	.416*** (5.076)
Ballot access			.482*** (16.326)	1.496*** (17.949)
Median income (log)	3.683*** (6.214)	1.497*** (5.253)	-.610*** (-5.040)	2.506*** (4.903)
Population density (log)	-.980*** (-12.686)	-.349*** (-9.399)	.024 (1.503)	-.675*** (-9.654)
College degree	.119*** (16.800)	.053*** (15.625)	.028 (19.535)	.013* (2.038)
Percent white	-.021*** (-3.651)	-.018*** (-6.528)	-.026*** (-18.010)	.016** (2.663)
Percent black	-.100*** (-15.657)	-.060*** (-19.646)	-.037*** (-22.885)	-.007 (-.962)
Percent Hispanic	-.029*** (-7.576)	-.006** (-3.408)	-.008*** (-9.582)	-.017*** (-5.129)
Constant	-3.428	-1.335	4.186	-6.725
F	239.331	245.688	231.010	88.459
Adjusted R ²	.380	.386	.417	.250
Number (N)	3113	3113	2899	2358

T-statistics in parenthesis

*-P<.05, **-P<.01, ***-P<.001

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