

Benjamin Eidelson

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PROFESSIONAL POSITIONS

Harvard Law School

Professor of Law, 2023–

Assistant Professor of Law, 2019–2023

Teaching: Constitutional Law; Discrimination Law in Theory & Practice;
The Roberts Court; Law & Philosophy Workshop

Jenner & Block LLP

Associate (Appellate and Supreme Court Practice), 2015–2016, 2017–2019

Supreme Court of the United States

Law Clerk to Justice Elena Kagan, 2016–2017

U.S. Court of Appeals for the D.C. Circuit

Law Clerk to Chief Judge Merrick B. Garland, 2014–2015

EDUCATION

Yale Law School, J.D. (2014)

Yale Law Journal, Editor-in-Chief

Supreme Court Advocacy Clinic, Student Director

Felix S. Cohen Prize for Best Paper in Philosophy of Law

Colby Townsend Prize for Best Paper by a Second-Year Student

Michael Egger Prize for Best Student Note on Current Social Problems

Judge William Miller Prize for Best Paper Concerning the Bill of Rights

University of Oxford, D.Phil. (2011) and B.Phil. (2010), Philosophy

Rhodes Scholarship

Gilbert Ryle Prize

Dissertation: “What Is Discrimination and When Is It Wrong?”

Committee: John Broome and Cecile Fabre (supervisors)

John Gardner and Kasper Lippert-Rasmussen (examiners)

Yale College, B.A., *summa cum laude* (2008)

Departmental Distinction in Philosophy and in Political Science

Alpheus Henry Snow Prize; Hart Lyman Prize; E. Frances Riggs Memorial Prize; J.

Edward Meeker Prize; Phi Beta Kappa

ACADEMIC WRITING

The Incompatibility of Substantive Canons and Textualism, 137 HARV. L. REV. 515 (2023) (co-authored with Matthew Stephenson)

The Etiquette of Equality, 51 PHIL. & PUBLIC AFFAIRS (2023)

Dimensional Disparate Treatment, 95 S. CAL. L. REV. 785 (2022)

Patterned Inequality, Compounding Injustice, and Algorithmic Prediction, 1 AM. J. L. & EQUALITY 252 (2021)

Reasoned Explanation and Political Accountability in the Roberts Court, 130 YALE L.J. 1748 (2021)

Received 2021 AALS Administrative Law Section “Emerging Scholar Award” for best paper by an untenured faculty member

Respect, Individualism, and Colorblindness, 129 YALE L.J. 1600 (2020)

Book Review: Discrimination as Stigma, 128 ETHICS 678 (2018)

DISCRIMINATION AND DISRESPECT (Oxford University Press 2015)

Reviewed in *Ethical Theory and Moral Practice* (20:451-54); *Ethics* (128:240-45);

Australasian Journal of Philosophy (95:622); and *Political Studies Review* (15:616)

Treating People as Individuals, in PHILOSOPHICAL FOUNDATIONS OF DISCRIMINATION LAW (Oxford University Press 2013, Deborah Hellman and Sophia Moreau eds.)

The Majoritarian Filibuster, 122 YALE L.J. 980 (2013) (Note)

Kidney Allocation and the Limits of the Age Discrimination Act, 122 YALE L.J. 1635 (2013) (Comment)

A Penumbra Overlooked: The Free Exercise Clause and Lawrence v. Texas, 30 HARV. J. L. & GENDER 203 (2007) (Note)

OPINION PIECES

“Pay[ing] Our Precedents No Respect”: Why the DACA and Remain-in-Mexico Rescissions Are Worlds Apart, YALE J. REG. NOTICE & COMMENT (Sept. 2, 2021)

A Way Out for the Supreme Court on DACA, N.Y. TIMES (Oct. 27, 2019)

Unbundling DACA and Unpacking Regents: What Chief Justice Roberts Got Right, BALKINIZATION (June 25, 2020)

Let the Majority Rule, SLATE (Feb. 8, 2010)

SELECTED PRESENTATIONS

“Substantive Canons Are Incompatible with Textualism” (2022)
NYU Constitutional Law Colloquium
Harvard Law School Faculty Workshop

“The Etiquette of Equality” (2022)
UCLA Legal Theory Workshop
University of Chicago Constitutional Law Workshop
Harvard Law School Faculty Workshop

“Dimensional Disparate Treatment” (2021/2022)
Keynote presentation at Centre for the Experimental-Philosophical Study of Discrimination (CEPDISC) ’22 Conference on Discrimination (Virtual)
Penn Law & Philosophy Workshop
Harvard Law School Faculty Workshop

“[Nonhuman Animals and the Concept of Discrimination](#)” (2021)
Invited lecture for conference on “Speciesism and Other Discriminations” hosted by Centre de Recherche en Éthique (CRE) at Université de Montréal

“Author Q&A: *Discrimination and Disrespect*” (2021)
Invited question-and-answer session for the Centre for the Experimental-Philosophical Study of Discrimination (CEPDISC) at Aarhus University, Denmark

“Patterned Inequality, Compounding Injustice, and Algorithmic Prediction” (2020)

Copenhagen Algorithmic Fairness Workshop (invited keynote presentation)
Oxford “Algorithms at Work” Discussion Group

“Reasoned Explanation and Political Accountability in the Roberts Court” (2020)
University of Minnesota Public Law Workshop
Harvard Law School Public Law Workshop and Faculty Workshop
“Respect, Individualism, and Colorblindness” (2019)
University of Toronto, Symposium on Discrimination and Subordination

“Theory of Indirect Discrimination Workshop” (2016)
University of Oxford, Law Faculty
Invited discussant for paper on racial profiling

SELECTED BRIEFS (SOLE OR LEAD AUTHOR)

[Brief of Professor Benjamin Eidelson as Amicus Curiae in Support of Reversal, *Biden v. Texas*](#)
(U.S. 2022)

[Brief for the D.C. Respondents, *DHS v. Regents of the University of California*](#) (U.S. 2019)

[Brief for Plaintiffs-Appellants, *Almaqrami v. Pompeo*](#) (D.C. Cir. 2018) ([oral argument](#))

ACADEMIC SERVICE

Peer reviewer for Oxford University Press, Routledge, *Ethics*, *Legal Theory*, *Philosophical Studies*, *Public Affairs Quarterly*, *Analysis*, *Modern Law Review*, *Journal of Ethics and Social Philosophy*, and *Yale Law Journal*

Invited judge for AALS Administrative Law Section’s 2022 “Emerging Scholar” Award and Legal Priorities Project’s 2022 Writing Competition (“Improving Cost-Benefit Analysis to Account for Existential and Catastrophic Risks”) and

BAR ADMISSIONS

Supreme Court of the United States (2019)
U.S. Court of Appeals for the Second Circuit (2018)
U.S. Court of Appeals for the Fifth Circuit (2018)
U.S. Court of Appeals for the Seventh Circuit (2018)
U.S. Court of Appeals for the D.C. Circuit (2015)
U.S. District Court for the District of Columbia (2017)
District of Columbia (2016)
Maryland (2014)