

JOSHUA A. DOUGLAS

University of Kentucky J. David Rosenberg College of Law
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ACADEMIC EXPERIENCE

University of Kentucky J. David Rosenberg College of Law

Lexington, KY

Ashland, Inc.-Spears Distinguished Research Professor of Law (2020-present)

Thomas P. Lewis Professor of Law (2018-2020)

Robert G. Lawson & William H. Fortune Associate Professor of Law (2014-2018)

Assistant Professor of Law (2010-2014)

Courses:

- Civil Procedure I
- Constitutional Law II
- Election Law
- Supreme Court Decision Making

Research Areas:

- Election law and voting rights
- Constitutional right to vote, including state constitutions and local voting laws
- Procedural aspects of election law cases
- Vote counting rules and disputes

Select Service Activities:

- Elected Member, American Law Institute (ALI)
- Faculty Advisor to *Kentucky Law Journal*, Election Law Society, and American Constitution Society
- Current committee assignments include Speakers (Chair), Appointments, Clerkships, and University Senate Hearing Panel (Privilege and Tenure). Previously served as Chair of Institutional Compliance Committee
- Primary Creator and Initial Chair, AALS Section on Election Law; Prior Member, AALS Committee on Sections

Visiting Positions:

- *Visiting Professor*, St. Louis University School of Law, Fall 2023
- *Visiting Scholar*, University of Edinburgh Law School, May 2017
- *Faculty*, London Law Consortium, Spring 2014

AWARDS

Fulbright Specialist, 2023-26.

Ashland, Inc.-Spears Distinguished Research Professorship, 2020-25.

Robert M. and Joanne K. Duncan Teaching Award, 2019-20.

University of Kentucky College of Law nominee, University Alumni Professorship, 2018.

SEALS Call for Papers, Winner, 2011-12.

ACADEMIC PUBLICATIONS

BOOKS:

The Court v. The Voters: The Troubling Story of How the Supreme Court Has Undermined Voting Rights (Beacon Press forthcoming 2024).

Vote for US: How to Take Back Our Elections and Change the Future of Voting (Prometheus Books 2019).

Election Law Stories (Foundation Press 2016) (editor, with Eugene D. Mazo).

Election Law and Litigation: The Judicial Regulation of Politics (Aspen 2014) (2nd ed. 2022) (with Edward B. Foley and Michael J. Pitts).

LAW REVIEW ARTICLES:

There Must Be Something in the Water—Or the Bourbon—In Kentucky: Voting Rights in the Bluegrass State, 111 KENTUCKY LAW JOURNAL 581 (2023) (introducing symposium issue).

State Constitutions and Youth Voting Rights, 74 RUTGERS UNIVERSITY LAW REVIEW 1729 (2022) (symposium issue).

“How the Sausage Gets Made”: Voter ID and Deliberative Democracy, 100 NEBRASKA LAW REVIEW 376 (2021).

Undue Deference to States in the 2020 Election Litigation, 30 WILLIAM AND MARY BILL OF RIGHTS JOURNAL 59 (2021)

- Cited in *Texas Democratic Party v. Scott*, 617 F. Supp. 3d 598, 603 n.6 (S.D. Tex. 2022).
- Reprinted with permission as part of the AALS Conference on Rebuilding Democracy in 26 LEWIS & CLARK LAW REVIEW 405 (2022).

Bring the Masks and Sanitizer: The Surprising Bipartisan Consensus About Safety Measures for In-Person Voting During the Coronavirus Pandemic, 55 GEORGIA LAW REVIEW 1585 (2021) (with Michael A. Zilis)

The Loch Ness Monster, Haggis, and a Lower Voting Age: What America Can Learn from Scotland, 69 AMERICAN UNIVERSITY LAW REVIEW 1433 (2020) (symposium issue).

Precedent, Three-Judge District Courts, and the Law of Democracy, 107 GEORGETOWN LAW JOURNAL 413 (2018) (with Michael Solimine).

- Cited in *Common Cause Fla. v. Desantis*, No. 4:22-CV-109-AW-MAF, 2022 WL 19978293, at *3 n.2 (N.D. Fla. Nov. 8, 2022) (three-judge court).
- Cited in *Gonidakis v. LaRose*, 599 F. Supp. 3d 642, 663 (S.D. Ohio 2022) (three-judge court).
- Cited in *Lavergne v. U.S. House of Rep.*, 2018 WL 4286404 (D.D.C. Sept. 6, 2018) (three-judge court).

A Voice in the Wilderness: John Paul Stevens, Election Law, and a Theory of Impartial Governance, 60 WILLIAM & MARY LAW REVIEW 335 (2018) (with Cody Barnett).

The Right to Vote Under Local Law, 85 GEORGE WASHINGTON LAW REVIEW 1039 (2017).

A Checklist Manifesto for Election Day: How to Prevent Mistakes at the Polls, 43 FLORIDA STATE LAW REVIEW 353 (2016).

State Judges and the Right to Vote, 77 OHIO STATE LAW JOURNAL 1 (2016).

Election Law at the Local Level, 15 ELECTION LAW JOURNAL 232 (2016) (introducing symposium issue as guest editor).

A Pivotal Moment in Election Law, 104 KENTUCKY LAW JOURNAL 547 (2016) (introducing symposium issue).

A Formal Recognition of Our Field, 14 ELECTION LAW JOURNAL 239 (2015) (introducing symposium issue as guest editor).

(Mis)trusting States to Run Elections, 92 WASHINGTON UNIVERSITY LAW REVIEW 553 (2015).

- Cited in *Texas Dem. Party v. Hughs*, No. SA-20-CA-438 (Request for Additional Briefing, Aug. 13, 2021).
- Cited in *United States v. Louisiana*, 196 F. Supp. 3d 612, 625 (M.D. La. 2016).

The Right to Vote Under State Constitutions, 67 VANDERBILT LAW REVIEW 89 (2014).

- Cited in *League of Women Voters v. Commonwealth*, 178 A.3d 737, 804 (Pa. 2018).
- Cited in *Young v. Red Clay Consol. Sch. Dist.*, 122 A.3d 784, 810 n.17 (Del. Ch. 2015).

Election Law Pleading, 81 GEORGE WASHINGTON LAW REVIEW 1966 (2013).

Procedural Fairness in Election Contests, 88 INDIANA LAW JOURNAL 1 (2013) (winner of the 2011-12 SEALS Call for Papers).

- Cited in *Johnson v. Secretary of State*, No. 162286 (Mich. 2020) (Viviano, J., dissenting).
- Cited in *Rock v. Lankford*, 301 P.3d 1075, 1082 (Wyo. 2013).

Discouraging Election Contests, 47 UNIVERSITY OF RICHMOND LAW REVIEW 1015 (2013) (symposium issue).

- Cited in *Johnson v. Secretary of State*, No. 162286 (Mich. 2020) (Viviano, J., dissenting).

The Foundational Importance of Participation: A Response to Professor Flanders, 66 OKLAHOMA LAW REVIEW 81 (2013) (symposium issue).

To HAVA, and Beyond!, 12 ELECTION LAW JOURNAL 233 (2013) (reviewing MARTHA KROPF & DAVID C. KIMBALL, *HELPING AMERICA VOTE* (2011)).

Enlivening Election Law, 56 SAINT LOUIS UNIVERSITY LAW JOURNAL 767 (2012) (Teaching Election Law Issue).

Election Law and Civil Discourse: The Promise of ADR, 27 OHIO STATE JOURNAL ON DISPUTE RESOLUTION 291 (2012) (symposium issue).

The Procedure of Election Law in Federal Courts, 2011 UTAH LAW REVIEW 433.

The Significance of the Shift Toward As-Applied Challenges in Election Law, 37 HOFSTRA LAW REVIEW 635 (2009).

The Voting Rights Act Through the Justices' Eyes: NAMUDNO and Beyond, 88 TEXAS LAW REVIEW SEE ALSO 1 (2009).

Is the Right to Vote Really Fundamental?, 18 CORNELL JOURNAL OF LAW AND PUBLIC POLICY 143 (2008).

- Cited in *Ruddick v. Commonwealth of Australia* (Australia High Court, March 22, 2022).
- Cited in *Veasey v. Abbott*, 888 F.3d 792, 806 (5th Cir. 2018) (Higginbotham, J., concurring).

When is a "Minor" also an "Adult"?: An Adolescent's Liberty Interest in Accessing Contraceptives from Public School Distribution Programs, 43 WILLAMETTE LAW REVIEW 545 (2007).

Note, *A Vote for Clarity: Updating the Supreme Court's Severe Burden Test for State Election Regulations that Adversely Impact an Individual's Right to Vote*, 75 GEORGE WASHINGTON LAW REVIEW 372 (2007).

BOOK CHAPTERS, ESSAYS, AND ONLINE ACADEMIC COMMENTARY:

A History of Third-Party Voter Registration Drives, INSTITUTE FOR RESPONSIVE GOVERNMENT (May 2023).

Running in an Election Doesn't Mean You Know How to Run Elections: The Case for Including Local Election Administrators in Voting Policy Debates, CONSTITUTIONAL CONVERSATIONS, Center for Constitutional Design, Arizona State University (2022).

Establishing Justice, Securing the Blessings of Liberty: Why Civic Duty Voting Is Constitutional in ONE HUNDRED PERCENT DEMOCRACY: THE CASE FOR UNIVERSAL VOTING (E.J. Dionne and Miles Rapaport, authors) (New Press 2022) (co-author of this chapter)

The Case for Same-Day Voter Registration, THE JUSTICE COLLABORATIVE INSTITUTE, August 2020.

Congress Must Count the Votes: The Danger of Not Including a State's Electoral College Votes During a Disputed Presidential Election, 81 OHIO STATE LAW JOURNAL ONLINE 183 (2020) (Election Law Roundtable Edition).

Lift Every Voice: The Urgency of Universal Civic Duty Voting, UNIVERSAL VOTING WORKING GROUP, BROOKINGS INSTITUTION AND THE ASH CENTER FOR DEMOCRATIC GOVERNANCE AND INNOVATION, HARVARD KENNEDY SCHOOL (2020) (co-author of legal section and contributor to full report).

Elections as Duels: "You Know What? We Can Change That! You Know Why? 'Cuz We Have the Support of Two-Thirds of Each House of Congress and Three Quarters of the States!", in THE LAW OF HAMILTON: AN AMERICAN MUSICAL (Cornell University Press 2020).

REPORT: Age Discrimination In Voting At Home, Coalition of Voting Rights Organizations (2020) (co-author).

Lowering the Voting Age from the Ground Up: The United States' Experience in Allowing 16-Year-Olds to Vote, in LOWERING THE VOTING AGE TO 16 – LEARNING FROM REAL EXPERIENCES WORLDWIDE (Palgrave Macmillan 2020).

Democracy Reform, One Ballot at a Time, HARVARD LAW REVIEW BLOG (2018).

Local Democracy on the Ballot, 111 NORTHWESTERN LAW REVIEW ONLINE 173 (2017).

In Defense of Lowering the Voting Age, 165 UNIVERSITY OF PENNSYLVANIA LAW REVIEW ONLINE 63 (2017).

Expanding Voting Rights Through Local Law, ACS ISSUE BRIEF (2017) (condensed version of *The Right to Vote Under Local Law*, 85 GEORGE WASHINGTON LAW REVIEW 1039 (2017)).

The Story of Crawford v. Marion County Election Board and the History of Voter ID Laws, in ELECTION LAW STORIES (2016).

To Protect the Right to Vote, Look to State Courts and State Constitutions, AMERICAN CONSTITUTION SOCIETY ISSUE BRIEF (2015) (drawing language from *State Judges and the Right to Vote*, 77 OHIO STATE LAW JOURNAL 1 (2016) and *The Right to Vote Under State Constitutions*, 67 VANDERBILT LAW REVIEW 89 (2014)).

Regulation of Federal Elections and Regulation of State Elections, ENCYCLOPEDIA OF AMERICAN GOVERNANCE (MacMillan 2015).

OP-EDS (from the past two years; full list available on request):

Alabama's Defiance of the Supreme Court and the Rule of Law, WASHINGTON MONTHLY, Sept. 18, 2023.

The Roberts Court Isn't Getting More Moderate, WASHINGTON MONTHLY, July 10, 2023.

A (Mostly) Good Supreme Court Ruling, Nixing the "Independent State Legislature" Theory of Election Law, WASHINGTON MONTHLY, June 27, 2023.

This victory at the Supreme Court shows how low the bar has fallen, CNN, June 11, 2023.

Justice Stevens's Papers and Burdick v. Takushi, ELECTION LAW BLOG, June 5, 2023.

Florida's New Law Takes Aim at Voter Registration, WASHINGTON MONTHLY, May 31, 2023.

Once Again, Voting Rights and Democracy Are Under Siege in North Carolina, WASHINGTON MONTHLY, May 5, 2023.

Can New Jersey benefit from a lowered voting age?, NORTHJERSEY.COM, May 4, 2023; *Why New Jersey Municipalities Can Likely Lower the Voting Age*, VOTE16 SUBSTACK, Apr. 20, 2023.

Kentucky's colleges and universities should follow UK and encourage voter registration, LEXINGTON HERALD-LEADER, Apr. 13, 2023.

[*Republicans Took Over the North Carolina Supreme Court. Here's What Happened*](#), WASHINGTON MONTHLY, Feb. 13, 2023.

[*Ohio's Restrictive Voting Law is a Disaster*](#), WASHINGTON MONTHLY, Jan. 31, 2023.

[*Election deniers aren't the only threats to democracy this year*](#), CNN, Nov. 1, 2022.

[*The Roberts Court Takes Aim at the Voting Rights Act*](#), WASHINGTON MONTHLY, Sept. 29, 2022.

[*The Case for the 16-Year-Old Vote*](#), WASHINGTON MONTHLY, Aug. 25, 2022.

[*One state where GOPers show the election wasn't stolen*](#), CNN, July 26, 2022.

[*Take Me Out to the...Voting Booth!*](#), WASHINGTON MONTHLY, July 14, 2022.

[*The dangerous election theory the Supreme Court may be poised to endorse*](#), CNN, July 7, 2022.

[*Non-Citizen Voting in New York City Blocked by State Court*](#), STATE AND LOCAL GOVERNMENT BLOG, July 1, 2022.

[*New York's Smart New Voting Rights Law*](#), WASHINGTON MONTHLY, June 13, 2022.

[*Ohio Voters Shafted by Conservative Judicial Activism*](#), WASHINGTON MONTHLY, April 25, 2022.

[*Ketanji Brown Jackson, Voting Rights Champion?*](#), WASHINGTON MONTHLY, April 1, 2022.

[*Another Scheme to Curtail Voting Rights*](#), WASHINGTON MONTHLY, March 4, 2022.

[*The Supreme Court's Alabama Disaster*](#), WASHINGTON MONTHLY, Feb. 9, 2022.

[*One Year After the Capitol Attack, Why Have We Done Nothing to Protect Our Democracy?*](#), WASHINGTON MONTHLY, Jan. 5, 2022.

[*One year after Jan. 6, Mitch McConnell still "obstructor-in-chief" on election rules.*](#), LEXINGTON HERALD-LEADER, Jan. 5, 2022.

[*How Kentucky's redistricting result is the definition of gerrymandering*](#), LOUISVILLE COURIER JOURNAL, Jan. 5, 2022.

[*The attacks on the 2024 election are already underway*](#), CNN, Nov. 29, 2021.

[*Why Gerrymandering Needs to Land in State Courts*](#), POLITICO, Nov. 24, 2021.

[*A Voting Rights Bill That Both Democrats and Republicans Can Support*](#), WASHINGTON MONTHLY, Oct. 22, 2021.

[*Maybe Supreme Court Judges Really Are Driven by Politics*](#), WASHINGTON MONTHLY, Oct. 12, 2021.

[*Disbar Trump's Lawyers Who Tried to Steal the Election*](#), WASHINGTON MONTHLY, August 31, 2021.

[*What I Learned Talking to Fourth-Graders About How to Design Elections*](#), POLITICO, July 31, 2021.

Why Voting Isn't a "Privilege," WASHINGTON MONTHLY, July 30, 2021.

MLB Can Do More for Voting Than Moving the All-Star Game, USA TODAY, July 12, 2021.

Supreme Court Deals Blow to American Democracy, CNN, July 1, 2021.

Republicans aren't just making it harder to vote. They're going after election officials, too., WASHINGTON POST, May 9, 2021.

Arizona's dangerous vote audit includes a hunt for bamboo, CNN, May 7, 2021.

In Georgia, will courts leave the fox in charge of the hen house?, CNN, March 31, 2021.

A contested election in Iowa could undermine Americans' faith in democracy, CNN, March 18, 2021.

Keep your eye on Kentucky's voting plans, CNN, Feb. 26, 2021.

Republicans react to 2020 defeats by trying to make it harder to vote, CNN, Jan. 27, 2021.

Voter ID Laws Are Bad. But Some Are Better Than Others, WASHINGTON MONTHLY, Jan. 27, 2021.

KY's pandemic voting plan was great; Ky lawmakers should stop attacking it, LEXINGTON HERALD-LEADER, Jan. 8, 2021; *Democracy is under attack, but now it's not in Washington, it's in Kentucky's Capitol,* LOUISVILLE COURIER-JOURNAL, Jan. 11, 2021 (same Op-Ed).

MEDIA APPEARANCES

I have appeared in the *New York Times*, *Washington Post*, *Wall Street Journal*, *CNN*, *USA Today*, *NPR*, *Bloomberg Radio*, *The Atlantic*, *Politifact*, *Associated Press*, and numerous other media outlets. A list of media appearances is available on request.

PRESENTATIONS

I have presented at numerous law schools, academic conferences, public policy gatherings, bookstores, and events for the general public. A list of presentations is available upon request.

LEADERSHIP ROLES

National:

- *Editorial Board*, Election Law Journal
- *Member*, Universal Voting Working Group
- *Member*, Vote16 Global Network
- *Advisory Board*, Vote16USA – Generation Citizen
- *Advisory Board*, National Vote at Home Institute
- *Leadership Circle*, Promote Our Vote (FairVote)
- *Legal Advisory Committee on a Constitutional Right to Vote*, Advancement Project

Kentucky:

- *Transition Team*, Kentucky Secretary of State Michael Adams, 2019
- *Consultant on Voting Rights Exhibit*, Kentucky Historical Society
- *Board of Trustees*, Carnegie Center for Literacy and Learning
- *Governance Board*, CivicLex
- *Board of Directors*, International Book Project
- *Kentucky Supreme Court Committee on Revising Code of Judicial Conduct*, 2017

SELECT CONSULTING ACTIVITIES

Amicus Brief, Graham v. Adams, No. 22-CI-00047 (Ky. S. Ct. 2023).

Expert Report on U.S. Voting Age, Penney-Crocker v. The Attorney General In Right of Canada, No. CV-21-00673219 (Ontario Superior Court of Justice).

Amicus Brief Supporting Plaintiffs-Appellees, Richardson v. Flores, No. 20-50774 (5th Cir. 2021).

League of Women Voters of New York State v. New York State Board of Elections, No. 160342/2018 (New York Supreme Court Appellate Division, First Department).

Expert Report on U.S. Voter ID Laws, Council of Canadians v. The Crown, No. CV-14-513961 (Ontario Superior Court of Justice).

Analysis of National Voter Registration Act, Various Public Policy Organizations.

Amicus Brief Supporting Petitioners, Shapiro v. McManus, No. 14-990 (U.S. Supreme Court) (with Michael Solimine) (the Court sided with the Petitioners 9-0).

EDUCATION

The George Washington University Law School

Washington, DC
May 2007

Juris Doctor, with highest honors

- Ranked in top 2% of class
- Order of the Coif
- Recipient of the Imogen Williford Constitutional Law Award for the top student in constitutional law classes
- Articles Editor, *The George Washington Law Review*
- Member, Moot Court Board
 - Finalist, 2006-2007 Van Vleck Constitutional Law Moot Court Competition (argued before Justice Samuel Alito, Judge Diane Wood, and Judge José Cabranes)

The George Washington University

Washington, DC
May 2002

Bachelor of Arts, summa cum laude

- Major: Political Science; Minor: Sociology
- Phi Beta Kappa
- National Society of Collegiate Scholars

PRIOR LEGAL EXPERIENCE

Akin Gump Strauss Hauer & Feld LLP

San Antonio, TX
2009-2010

Associate

- Worked in litigation group, focusing on federal trials and appeals, mostly involving insurance defense

The Honorable Edward C. Prado

United States Court of Appeals for the Fifth Circuit

Judicial Clerk

San Antonio, TX
2007-2009

Mayer Brown LLP

Summer Associate (received offer for post-clerkship employment)

Washington, DC
Summer 2007

Dow Lohnes PLLC

Summer Associate (received offer for post-clerkship employment)

Washington, DC
Summer 2006

The George Washington University Office of VP and General Counsel

Law Clerk

Washington, DC
2005-2007