NEIL KINKOPF

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(404)523-2127

Georgia State University
140 Decatur Street
Atlanta, GA 30302
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Current Position

Professor, Georgia State University College of Law
Assistant Professor (1999-2002); Associate Professor (2002-2007); Professor since 2007
Areas of teaching and scholarly interest: Civil Procedure, Constitutional Law, Legislation, and Criminal Law
Recipient: Patricia T. Morgan Award for Outstanding Faculty Scholarship (2007)

Academic Experience

Senior Fellow, Duke University School of Law (1998 - 1999)
Taught: Constitutional Law II (the law of separation of powers)
Additional responsibilities: assisted in establishing the Duke University Program in Public Law; planned and published inaugural symposium

Visiting Assistant Professor, Case Western Reserve University School of Law (1997 - 1998)
Courses taught: Criminal Law, Civil Procedure, and Legislation

Professional Experience

Counsel to Senator Joseph R. Biden, Jr., United States Senate (December 1998 - February 1999)
Was retained for the impeachment trial of President Clinton; rendered advice on constitutional and other legal issues for the Senator and the Democratic Caucus

Special Assistant, Office of Legal Counsel
United States Department of Justice, Washington, DC (July 1993 - May 1997)
Advised and drafted legal memoranda for various components of the Executive Office of the President and other federal agencies on issues of administrative law, contract law, employment and labor law, environmental law, federal jurisdiction, legislation and statutory interpretation, election law, constitutional law, and criminal law; drafted opinions resolving disputes between federal agencies; assisted in formulating the position of the United States in significant litigation before the Supreme Court of the United States and the federal courts of appeals and assisted in brief writing and preparation for oral argument; reviewed Executive Orders, Presidential Proclamations, and Attorney General Orders for form and legality; reviewed pending legislation for constitutional validity and, with respect to enrolled bills, advised on need for presidential interpretive direction.

Special Consultant, Office of the Counsel to the President
The White House, Washington, DC (December 1996 - January 1997)
Coordinated vetting process for Secretary of Housing and Urban Development and Secretary of Transportation; interviewed "finalists" for these positions; supervised staff of attorneys who conducted an exhaustive review of public record information regarding potential nominees for these positions;

drafted reports for the President and the Counsel to the President summarizing this research and analyzing the strengths and weaknesses of each candidate.

Attorney-Advisor to the Attorney General
United States Department of Justice, Washington, DC (March 1993 - July 1993)
Assisted in all aspects of the confirmation process for all Department of Justice nominees; prepared briefing materials; participated in mock hearings; responded to information and document requests of the Senate Judiciary Committee.

United States Court of Appeals for the Sixth Circuit, Okemos, MI (September 1991 - August 1992)
Law Clerk to Judge Richard F. Suhrheinrich

Special Assistant to the Attorney General-Designate
Presidential Transition, Washington, DC (December 1992 - March 1993)
Assisted in all aspects of the confirmation process for Attorneys General-Designate Janet Reno and Zoe Baird; wrote briefing memoranda and edited and maintained the briefing book that the Attorneys General-Designate used to prepare for their confirmation hearings; participated in mock hearings.

Domestic Policy Specialist, Clinton/Gore Campaign, Little Rock, AR (August 1992 - November 1992)
Coordinated crime and drug policy and rural development policy; drafted campaign's position paper on rural development; wrote briefing memoranda to then-Governor Clinton on topics such as airline regulation and rural development; supervised successful lawsuit against St. Louis Board of Elections.

Paul, Weiss, Rifkind, Wharton & Garrison, New York, NY (May 1990 - Aug. 1990)
Summer Associate

Administrative Assistant to the Mayor of Everett, MA (June 1987 - July 1988)
Formulated and implemented environmental policy and housing policy; oversaw Zoning Board of Appeals and Conservation Commission.

Education

Case Western Reserve University School of Law, Cleveland, OH
Degree: J.D. (1991) G.P.A.: 3.85
Editor in Chief, CASE WESTERN RESERVE LAW REVIEW (Volume 41)
magna cum laude
Order of the Coif
Merit Scholar (three-year, full tuition scholarship)
American Jurisprudence Awards in criminal law, property, and mass media law
Chief Justice, Student Honor Court
Board of Governors, Student Public Interest Law Fellowships

Boston College, Chestnut Hill, MA
Degree: A.B. (1987) G.P.A.: 3.74
Majors: Economics and Political Science
Awards: *summa cum laude; Phi Beta Kappa;* William J. Kenealy Award (annual award for "academic excellence and social concern"); Commonwealth of Massachusetts Certificate of

Merit (presented by Governor Dukakis for volunteer efforts on behalf of The Fund for the Homeless)

Publications and Presentations

Works in Progress

The State Secrets Problem: Can Congress Fix It?, TEMPLE L. REV. (Forthcoming 2007)(invited submission and presentation for law review symposium)

Signing Statements and Statutory Interpretation in the Bush Administration, WM. & MARY BILL RTS. J.(forthcoming 2007)(invited submission and presentation for Bill of Rights Institute symposium)

Publications in Academic Journals

Signed under Protest: A Database of Presidential Signing Statements, 2001-2006, *available at* http://ssrn.com/sol3/papers.cfm?abstract_id=1022202 (with Peter M. Shane)

Signing Statements and the President's Authority to Refuse to Enforce the Law, 1 ADVANCE 5 (2007)

Inherent Power and Constitutional Structure, 37 PRES. STUDS. Q. 37 (2007)

Putting Separation of Powers into Practice: Reflections on Senator Schumer's Essay, 1 HARV. L. & POL'Y REV. 41 (2007)(with Patricia Wald)

The Statutory Commander in Chief, 81 IND. L.J. 1169 (2006)(lead article for law review symposium)

Restoring the Progressive Vision of the Constitution, 1 HARV. L. & POL'Y REV. 1 (Summer 2006)(on-line publication only)

Principles to Guide the Office of Legal Counsel, 81 IND. L.J. 1348 (2006)(originally released Dec. 21, 2004)(numerous co-authors)

Book Review, *Unintended Consequences of Constitutional Amendment*, JOURNAL OF AMERICAN HISTORY (2003) (invited submission reviewing a collection of essays edited by Prof. David Kyvig)

Deliberative Democracy and Campaign Finance Reform, 65 L & CONTEMP. PROBS. 151 (2002)

The Progressive Dilemma, 75 NOTRE DAME L. REV. 1493 (2000)

Foreword: The Constitution under Clinton, 63 L. & CONTEMP. PROBS. 1 (2000)

The Scope of "High Crimes and Misdemeanors" after the Impeachment of President Clinton, 63 L. & CONTEMP. PROBS. 201 (2000)

Executive Privilege: The Clinton Administration in the Courts, 8 WM. & MARY BILL OF RTS. J. 631 (2000) (invited submission for symposium on executive privilege)

Special Editor, "Symposium: The Constitution under Clinton: A Critical Assessment," 63 LAW & CONTEMPORARY PROBLEMS (2000)

Of Devolution, Privatization, and Globalization: Separation of Powers Limits on Congressional Authority to Assign Power to Non-Federal Actors" 50 RUTGERS L. REV. 331 (1998)

Student Note, *Malice in Wonderland: Fictionalized Quotations and the Constitutionally Compelled Substantial Truth Doctrine*, 41 CASE W. RES. L. REV. 1271-1310 (1991)

Other Publications

The Congress as Surge Protector, Briefing Paper posted the website of the American Constitution Society (Jan. 8, 2007), available at http://www.acslaw.org/pdf/Kinkopf-Surge.pdf

Untangling the Debate on Signing Statements, posted on several blogs including the Georgetown Law Center Faculty Blog at http://gulcfac.typepad.com/georgetown_university_law/ (co-authored July 31, 2006)

Signing Statements and the President's Authority to Refuse to Enforce the Law, White Paper for the American Constitution Society, published online at http://acslaw.org/files/Kinkopf-Signing%20Statements%20and%20President's%20Authority.pdf (June 2006)

Statutory Interpretation of Presidential Power: The Case of Domestic Surveillance, JURIST (March 6, 2006)

What Are the Limits of Presidential Power, Debate Club against John Yoo, LEGAL AFFAIRS (Nov. 30, 2005)(on-line only)

Furious George, LEGAL AFFAIRS, at 28 (Sept./Oct. 2005)

Still Wed to Framers' Grand Plan, THE LEGAL TIMES, at 58 (April 5, 2004)

A Perdue Victory Would Eliminate a Safeguard against Abuse of Power, FULTON COUNTY DAILY REPORT 6 (Apr. 8, 2003)

The Case for a Permanent Independent Counsel, THE WALL STREET JOURNAL A26 (Mar. 30, 1999)

What about Burton's Contempt for the Constitution?, THE LEGAL TIMES, at 25 (Aug. 17, 1999) (with Christopher H. Schroeder)

Delegation, Immigration, and Property Rights, published in Program Materials for the 8th Annual United States Supreme Court Update (September 2001) (Georgia ICLE)

Congressional Testimony

Panelist, "The Constitution as Surge Protector: Escalation in Iraq, the Congress and the Constitution," briefing for members, staff, and media (January 19, 2007)

Principal Author, Scholars' Letter to Congressional Leaders regarding Congress's authority over military affairs (January 17, 2007), published at 1 Harv. L. & Pol'y Rev. (2007)(on-line version only), http://www.hlpronline.com/2007/01/letter_01.html

Witness before the United States House of Representatives Committee on Rules, Subcommittee on Legislative and Budget Process, hearing on "The Impact of Executive Orders on the Legislative Process: Executive Lawmaking?" (October 27, 1999).

Witness before the United States House of Representatives Committee on the Judiciary, Subcommittee on the Constitution, hearing on "Congress, the Courts and the Constitution" (January 29, 1998) (regarding the role of Congress in constitutional interpretation)

Other Presentations

Panelist, The Constitution under President Bush, Duke University Law School (September 2008)

Presentation, Signing Statements and the President's Authority to Refuse to Enforce the Law, Orlando Lawyer's Chapter of the American Constitution Society (January 2008)

Panelist, Legislation and Interpretation during the War on Terror, Section on Legislation, Annual Convention of the Association of American Law Schools (January 2008)

Presentation, Signing Statements and the President's Authority to Refuse to Enforce the Law, Kentucky Lawyer's Chapter of the American Constitution Society (December 6, 2007)

Panelist, Temple Political and Civil Rights Law Review Symposium (October 2007)

Presentation, Executive Privilege, Presentation, Presidential Power Controversies, Annual Supreme Court Update, Georgia State Bar Association (October 2007)

Panelist, *Gonzales v. Carhart*, John Marshall Law School (September 17, 2007)

Panelist, The Future of the Justice Department, Emory Law School (September 10, 2007)

Panelist, "Detaining Terrorists: Habeas Corpus Concerns," Annual Conference of the Law, Ethics, and National Security Program at Duke University School of Law (April 13, 2007)

Moderator, "Domestic Spying," Annual Conference of the Law, Ethics, and National Security Program at Duke University School of Law (April 12, 2007)

Debate on Congressional Authority to Regulate the Conduct of War, William and Mary College of Law (April 2007)

Presentation, Symposium on Presidential Power, Temple University School of Law (March 2007)

Presentation, Symposium of Presidential Signing Statements, William and Mary College of Law, Bill of Rights Institute (February 2007)

Presentation, Presidential Power and Presidential Signing Statements, North Carolina Bar Association Continuing Legal Education Program (February 2007)

Moderator, "Incident at Airport X" (examining legal issues and authorities surrounding emergency quarantine), Centers for Disease Control and Prevention (January 2007)

Presentation, The Legality of the NSA Domestic Surveillance Program, University of Miami School of Law (October 10, 2006)

Presentation, Presidential Power Controversies, Annual Supreme Court Update, Georgia State Bar Association (October 5, 2006)

Panelist, "Domestic Surveillance and the Rule of Law" program at the national convention of the American Constitution Society (June 17, 2006)

Panelist, "Assertions of Executive Power since 9/11" program sponsored by the Atlanta lawyers chapter of the American Constitution Society and the Georgia Civil Liberties Union (May 15, 2006)

Panelist, "U.S. National Security Strategy: Finding the Right Balance," Annual Conference of the Law, Ethics, and National Security Program at Duke University School of Law (April 21, 2006)

Presentation, "Presidential Power, the PATRIOT Act, and Domestic Surveillance," University of Mississippi (April 17, 2006)

Presentation, "Signing Statements and the President's Power to Refuse to Enforce the Law," Northwestern University School of Law (March 31, 2006)

Presentation, "The Scope of Executive Power in the 21st Century," Northeastern University School of Law (March 14, 2006)

Faculty presentation at Indiana University (Bloomington) School of Law on a forthcoming article entitled "The Statutory Commander in Chief" (February 17, 2006)

Presentation, "The Imperial Presidency and the Unitary Executive" to the ACLU of Indiana and IU chapter of the American Constitution Society (February 16, 2006)

Debate on the Legality of the Bush Administration's Domestic Surveillance Program, Emory Law School (February 9, 2006)

Moderator, Panel Discussion on Judicial Independence in Georgia, Annual Georgia Bar and Media Conference (January 28, 2006)

Panelist, The Nomination of Judge Alito to the Supreme Court, American Constitution Society (January 3, 2006)

Lead Presentation, Symposium on War, Terrorism, and Torture: Limits on the Commander in Chief Power, Indiana University Bloomington Law School (October 7, 2005)

Presentation, The Constitution in the 21st Century, Program of the Atlanta Lawyers Chapter of the American Constitution Society (August 2005)

Panelist, The Commander in Chief Power in the 21st Century: Will There Be Limits, Plenary Panel held at the Annual Convention of the American Constitution Society (July 2005)(Broadcast on C-Span and available at acslaw.org)

Moderator, Panel Discussion on Indecency and Government Regulation, Annual Georgia Bar and Media Conference (February 2005)

Presenter, Panel on the Applicability of International Law to Constitutional Interpretation of Presidential Power, University of Chicago Law School Conference on Law and Terrorism (October 2004)

Discussant, Hollywood Goes to Washington, panel discussion of "The War Room" for the GSU Ethics program (October 2004)

Moderator, Panel Discussion of Laws Constraining the Use of Torture by U.S. Personnel, Duke University School of Law (September 2004)

Panelist, Judicial Independence, Annual Convention of the American Bar Association (August 2004)(co-sponsored by the Alliance for Justice)

Panelist, Law and Religion, Annual Georgia Bar and Media Conference (February 2004)

Presentation, Campaign Finance Reform Panel, annual conference of Southeastern Association of American Law Schools (July 2003)

Debate on Publicly Funded Vouchers for Parochial Schools, sponsored by the Federalist Society, Georgia State University College of Law Chapter (February 2003)

Moderator, The President's Authority over Foreign Affairs (January 2003)(planned and moderated symposium to be published in the GA. ST. L. REV. on recent book by Prof. H. Jefferson Powell)

Panelist, The Future of Federalism (January 2003)(ABA-sponsored panel reviewing recent federalism cases of the Rehnquist Court and previewing coming controversies attended by over 2,000 lawyers)

Commentator, The Progressive Constitution, symposium sponsored by Duke University School of Law, Program in Public Law (December 2002)

Organizer and Moderator, United States Supreme Court Update, day-long seminar sponsored by the Institute of Continuing Legal Education in Georgia (September 2002)

Commentator, The Law of Politics, symposium sponsored by Duke University School of Law, Program in Public Law (October 2001)

Presentation, United States Supreme Court Update, seminar sponsored by the Institute of Continuing Legal Education in Georgia (September 2001)

Presentation, The Electoral College: History and Reform, seminar sponsored by regional adult learning service (May 2001)

Panelist, The Constitution in Exile, symposium sponsored by Duke University School of Law, Program in Public Law (October 2000)

Presentation, "The New Preemption and the Old Non-Delegation Doctrine," Southeastern Conference of the Association of American Law Schools (August 2000)

Panelist, The Constitution under Clinton: A Critical Assessment, panel on Impeachment, at Duke University School of Law (September 24, 1999)

Panelist, "Assessing the Clinton Presidency," Case Western Reserve University Political Science Department Distinguished Speakers Program (April 1998)

Presentation, "The Constitutionality of the Line Item Veto Act," Case Western Reserve University Faculty Colloquium (September 1997)

Moderator, "Crime Control and the Commerce Clause: Life after *Lopez*" in the CASE WESTERN RESERVE LAW REVIEW symposium, The New Federalism after *United States v. Lopez* (November 1995)

Representative Professional Service and Pro Bono Work

Co-Chair, Federalism and Separation of Powers Working Group, American Constitution Society

Member, Board of Directors, Common Cause of Georgia

Member, Board of Directors, American Civil Liberties Union of Georgia

Member, Board of Directors, American Civil Liberties Foundation of Georgia

Consultant, Washington State Dept. of Social and Health Services v. Keffeler, 123 S. Ct. 1017 (2003)(advised and helped draft briefs in the Supreme Court of the United States for respondent)

Consultant, Bush v. Gore, 531 U.S. 98 (2000) (advised respondent, Vice President Albert Gore, on briefs in the Supreme Court of the United States)

Consultant, Perdue v. Baker, (drafted two briefs for *amici curiae* in constitutional dispute between Governor and Attorney General over which officer controls the state's litigation authority)

GSU College of Law Service

Founder and Director, Center on State Law, Legislation, and Policy (AY1999-2005)**.** This project was initiated to realize the College of Law's goal of exploiting the academic potential of its location in the state capital. I developed a number of innovative programs to create linkages with state government, particularly devising and managing our Legislation Practicum, which combines for enrolled students a serious academic experience, including authoring a major written work of legal analysis sufficient to satisfy the writing requirement, and a practical externship experience, working with lawyers and legal organizations that have a significant involvement in the legislative process.

Faculty Advisor, GEORGIA STATE UNIVERSITY LAW REVIEW (AY 2001-present)

Faculty Advisor, Catholic Students Association (AY 2003-present)

Faculty Advisor, American Constitution Society, GSU chapter (AY 2004-present)