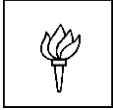


**THE ARTHUR GARFIELD HAYS
CIVIL LIBERTIES PROGRAM**

ANNUAL REPORT 2020–2021

September 2021





New York University
A private university in the public service

School of Law
Arthur Garfield Hays Civil Liberties Program
40 Washington Square South
New York, New York 10012-1099

Co-Directors

Professor Emerita Sylvia A. Law
Tel: (212) 998-6265
Email: sylvialaw42@gmail.com

Professor Helen Hershkoff
Tel: (212) 998-6285
Email: helen.hershkoff@nyu.edu

**THE ARTHUR GARFIELD HAYS CIVIL LIBERTIES PROGRAM
ANNUAL REPORT 2020–2021**

The last year has been a year without precedent: the COVID-19 pandemic left more than a half million Americans dead, exposing cruel racial disparities in social and economic conditions throughout the United States; hundreds of migrant children were separated at the border from their parents; unemployment went to its highest rate since the Great Depression; Justice Ruth Bader Ginsburg died, giving former President Trump the opportunity to appoint a third justice to the U.S. Supreme Court; a violent assault on the Capitol—the first, since the War of 1812—sought to prevent Congress from certifying Joseph Biden as the winner of the 2020 Presidential election; and the House of Representatives impeached former President Trump a second time, now for inciting an insurrection, but the Senate once again acquitted him by a narrow partisan vote.

Against this background, we are thrilled to announce that Deborah N. Archer will be joining Sylvia A. Law and Helen Hershkoff as a Co-Director of the Arthur Garfield Hays Civil Liberties Program beginning in fall 2021. Deborah is a Professor of Clinical Law at NYU and serves as President of the ACLU—the first person of color to hold that position. Her directorship carries on a great tradition of the Hays Program: Norman Dorsen, our long-time leader and inspiration who died in 2017, served as ACLU President from 1976–1991.



Deborah N. Archer—Professor of Clinical Law, NYU, and
ACLU President.

Despite the challenges of the last year, the Hays Program carried out its central mission: to mentor a new generation of public interest lawyers dedicated to defending and expanding civil rights and civil liberties. The pandemic made it impossible for the Fellows and Directors to meet in person for seminar or over dinner. But technology allowed the Fellows to participate in internships remotely, to engage in robust seminar discussion, and to meet with the Directors, supervisors, distinguished practitioners, judges, and each other. Despite distance, the Fellows forged friendships, met new mentors, and through Zoom participated in internships outside of New York City—one Fellow worked in Texas and another in the District of Columbia.

This Annual Report describes the Fellows and their work and other activities during this most remarkable and challenging of years.



This year's Hays Fellows and Directors meeting via Zoom.

THE FELLOWS

This year's Fellows were:

Elisabeth Campbell (Leonard Boudin Fellowship)
Paul-Winston Cange (Palmer Weber Fellowship)
Kameron Johnston (Robert Marshall Fellowship)
Isaac Kaplan (Norman & Harriette Dorsen Fellowship)
Rachel Maremont (Deborah Rachel Linfield Fellowship)
Meena Roldán Oberdick (Tom Stoddard Fellowship)
Lauren Wilfong (Roger Baldwin Fellowship)

The work of the Hays Fellows reflected the ever-evolving challenges to civil rights and civil liberties and the experiences that each Fellow brought to the program. This year, voting rights commanded a great deal of attention, but Fellows also worked on issues concerning immigration, the First Amendment, criminal legal system reform, economic justice, and the rights of LGBTQ people. Much of the work was intersectional in its approach. Here is a summary of the work done by this year's Hays Fellows.

Voting Rights

2020 was a stressful and critical time for voting rights, leading up to the Presidential Election in November in the midst of a life-threatening pandemic. In the fall, two Fellows worked on voting rights issues.

Elisabeth Campbell interned at the Brennan Center for Justice and assisted a legal team headed by Myrna Pérez (who, as of this writing, has been nominated by President Biden to be a judge of the U.S. Court of Appeals for the Second Circuit) on a wide variety of projects. Liza provided research support for several lawsuits, including one in Texas state court related to drop-boxes and several in Pennsylvania state court. She also co-authored a report on changes to voting laws that states made in response to the pandemic, and provided research support on the legality of automatic voter registration under federal law.

Meena Roldán Oberdick interned at the ACLU National Legal Department supervised by Jennessa Calvo-Friedman. On the voting rights front, Meena researched and prepared draft emergency orders to be used by states and localities to combat voter suppression and to safeguard the vote in the face of poll-day emergencies.

In the spring, Isaac Kaplan interned at the Brennan Center with the voting rights team. There, he assisted in preparing for oral arguments before the Fifth Circuit over a multi-million-dollar attorney fee award stemming from a prior challenge to Texas's voting laws that successfully caused Texas to change its voting law. The case presented complex procedural questions, and Isaac drafted an opening statement and worked with the team to prepare for likely questions from the bench. He also spent significant time analyzing the potential scope and impact of pending voting rights litigation, specifically the John Lewis Voting Rights Advancement Act.



Myrna Pérez—Director, Voting Rights & Elections, Democracy, Brennan Center for Justice.



Deborah Thorpe—Deputy Director, National Housing Law Project.

Economic Justice

The pandemic brought to the surface many issues of racial and economic injustice in the United States that raised complicated questions of civil rights and civil liberties. In the fall, Isaac Kaplan interned in the Employment Law Unit of Manhattan Legal Services. Isaac

worked on a range of employment issues, including underpayment and wage theft claims. Isaac’s most in-depth assignment was to assist in an ongoing wrongful termination and employment discrimination case being litigated in federal court against a major multi-national corporation.

In the fall, Paul-Winston Cange interned remotely at the San Francisco-based National Housing Law Project (NHLP) supervised by Deborah Thorpe, NHLP’s Deputy Director. One project involved drafting comments opposing proposed rulemaking by the Department of Housing and Urban Development that aimed to roll back protections under the 2021 Equal Access Rule—in particular, anti-discrimination rules that guaranteed transgender and gender non-conforming individuals the ability to access safe emergency shelter. Paul-Winston also supported NHLP’s work to secure enforcement of Centers for Disease Control and Prevention Order mandating a nationwide moratorium in residential evictions to half the spread of COVID-19. The CDC order faced legal challenges, and Paul-Winston undertook legal research for housing lawyers across the country as they attempted to uphold the order. Paul-Winston also investigated California housing initiatives, doing research on federal preemption.



Hugh Baran (Senior Staff Attorney & Skadden Fellow, National Employment Law Project) leads demonstration at NYU School of Law.

In the spring 2021, Elisabeth Campbell interned with the National Employment Law Project. Liza’s work involved forced arbitration in employment contracts, and was supervised by NYU Law alum Hugh Baran whose Skadden fellowship based out of NELP focused on that issue. She supported the organization’s work on a variety of projects, including research and advocacy related to legislative efforts at both the state and federal level. In particular, she drafted a report on the effects of forced arbitration on workers in Maine to support the work of a Maine coalition attempting to pass a state qui tam statute. Elisabeth’s work at NELP also focused extensively on the role that government can play in mitigating the enforcement crisis caused by forced arbitration. This included significant research and reporting on how state Attorneys General might be able to help mitigate the

crisis.

In the spring, Paul-Winston Cange interned at the Washington, DC-based Food Research Action Center (FRAC), supervised by Ellen Teller, Director of Government Affairs. FRAC was founded in 1970 by Ron Pollack, Hays Fellow 1968. For his first assignment, Paul-Winston drafted a memo for hunger advocates and others outlining the budget reconciliation process—the process used to enact the American Recovery and Reinvestment Act. Paul-Winston also worked on a long-term project regarding the Food Program on Indian Reservations (FDPIR). For this project, he did extensive historical research on the history of the U.S.-Tribal Trust Relationship; researched caselaw on Tribal rights; and interviewed Janie Hipp, who has been nominated to be General Counsel to the Department of Agriculture, as well as several other advocates in the Native American Community.



Ron Pollack '68—Founder, Food Research and Action Center.



Janie Hipp—CEO, Native American Agriculture Fund.



Ellen Teller—Director of Government Affairs, Food Research and Action Center.

Criminal Law

In the fall, Kameron Johnston worked with the Texas-based Texas Fair Defense Project. TFDP is committed to “movement lawyering for racial and economic justice in the criminal legal system.” They work on a variety of issues related to the criminalization of poverty including helping people with suspended licenses, challenging modern-day debtor’s prisons, expunction services, and improving bail practices across Texas. Kameron’s work centered on challenging modern-day debtor’s prison by using habeas corpus to secure the release of individuals who are detained because they cannot afford to pay the fines and fees associated with driving tickets. Kameron succeeded in getting habeas relief for one person who had been wrongfully detained when unable to pay fines. Kameron also investigated fees-and-fines practices of the Amarillo Municipal Court doing extensive information gathering by filing public records requests, observing court proceedings, and carrying out legal research. Kameron also conducted weekly intake of potential clients and supported a driver’s license recovery clinic.

In the fall, Meena Roldán Oberdick whose internship at the ACLU National Legal Department was earlier noted, also worked on criminal justice issues. In particular, Meena contributed legal research and drafted arguments for the ACLU’s amicus brief in *Birt v. United States*, which argues that all individuals sentenced for crack cocaine offenses under a

now-amended federal statute that created a 100-to-1 disparity between the treatment of cocaine in its crack and powder forms are eligible for resentencing under amendments made by the First Step Act of 2018. As of spring 2021, the case is still pending before the United States Supreme Court.

In the spring, Kameron Johnston worked with the New York Legal Assistance Group (NYLAG) Tenant's Rights Unit (TRU). TRU zealously defends tenants facing eviction and displacement and fights to preserve affordable housing and prevent homelessness. This advocacy includes representing individuals in housing court eviction cases, representing clients before administrative agencies, and organizing around affordable housing preservation. Kameron primarily contributed to innovative research related to language access in housing court. Her research is serving as a basis for training TRU attorneys on best practices when testimony is misinterpreted during court proceedings. Kameron also supported staff attorneys on the citywide housing hotline and in their other day-to-day responsibilities.

In the spring 2021 semester, Meena Roldán Oberdick interned at The Legal Aid Society Queens Criminal Defense Practice where she assisted criminal defenders in their day-to-day responsibilities. She contributed research and writing to support a number of actions to defend the rights of criminal defendants, including motions and memoranda of law to keep clients from serving terms of upstate incarceration in the face the New York State Department of Corrections' fundamental inability to safeguard detainees' rights to life, health, and rehabilitative services since the onset of the COVID-19 pandemic.

Also in the spring, Lauren Wilfong interned at the Center for Constitutional Rights. Lauren's supervisor was Elsa Mota, Bertha Justice Fellow. Lauren primarily worked on a class action lawsuit against a prison in Louisiana, challenging conditions of confinement due to the pandemic. As part of that work, Lauren ran a hotline for detained and incarcerated members of the putative class, gathering information on conditions of confinement inside the prison. Lauren also researched and drafted materials on a range of issues for class members, class counsel, and community partners, including legal bases for seeking compassionate release from federal prison, language access rights for prisoners with limited English proficiency, and the application of public records laws to private contractors. Lauren also conducted research for a prospective lawsuit, including researching immunity issues for certain government defendants and making recommendations for best positioning the complaint to avoid defendants' invoking immunity down the road.



Elsa Mota—Bertha Justice Fellow, Center for Constitutional Rights.



Jennifer Stisa Granick—Surveillance and Cybersecurity Counsel, ACLU, Speech, Privacy, and Technology Project.

First Amendment

In the fall, Rachel Maremont interned at the ACLU’s Speech, Privacy, and Technology (SPT) Project, supervised by Jennifer Stisa Granick, the Surveillance and Cybersecurity Counsel at SPT. On the privacy front, she conducted research related to federal preemption law in support of SPT’s lawsuit against Clearview AI, a private company that has been building a secretive tracking and surveillance tool using face recognition technology. She also conducted research about and contributed to SPT’s comments in response to a Notice of Proposed Rulemaking from the Department of Homeland Security, which would authorize the collection and retention of massive amounts of biometric data from both non-citizen immigration applicants and U.S. citizen immigration sponsors. On the speech front, she contributed to two amicus briefs in state criminal cases challenging warrantless searches of digital data. In the first brief, *Commonwealth v. Dunkins*, SPT argued that people have a reasonable expectation of privacy in the location information logged by wireless internet networks when their smartphones and other devices connect to Wi-Fi access points; Rachel’s contribution, in concert with SPT’s technologist, explained Wi-Fi technology and, among other things, the dangers of its warrantless use, including the disparate negative impact on poor people and people of color. In *Wisconsin v. Burch*, SPT argued that information derived from a warrantless consent search of the defendant’s cell phone, as well as subsequent retention and searching of that data, should have been suppressed during his criminal proceedings. Rachel wrote a related internal brief about the Fourth Amendment and privacy issues inherent to consent searches of arrestees. Finally, Rachel contributed to research about the constitutionality of content restrictions in prisons and jails in support of an amicus brief in *Jones v. Ryan*, filed by a state prisoner challenging prison restrictions that blocked him from receiving materials such rap music and Nation of Islam-related books.

Immigration

In the spring, Rachel Maremont interned at Make the Road New York—Brooklyn with the Immigration Legal team. She worked on a number of individual immigration matters, including working with a client with complex criminal legal involvement to prepare

him for his naturalization interview; preparing an application for Humanitarian Parole for a client who had been separated from her child for over a year due to COVID-19; conducting research and drafting a Motion to Reopen in support of a client's asylum, withholding of removal, and protection under the Convention Against Torture applications; and writing an internal memo about jurisdictional issues surrounding asylum applications for unaccompanied minors in immigration proceedings. Rachel also worked with Make the Road's DACA team, screening community members for potential eligibility for the Deferred Action for Childhood Arrivals (DACA) program and assisting them in preparing applications. Finally, Rachel researched and created community-facing materials on policy changes that may affect Make the Road's membership, including the repeal of the Walking While Trans ban in New York State (CPL § 240.37, which criminalized "loitering for the purposes of prostitution"), the decriminalization of electric bikes, and the Right to Know Act.

In the fall, Lauren Wilfong interned at Brooklyn Defender Services, with the Immigration Unit's New York Immigrant Family Unity Project (NYIFUP) team. Lauren's supervisors included Scott Coomes, Hannah McCrea, Lilian Giacomina, and Nabila Taj. Lauren worked with a half dozen clients in immigration court to assist them in defending against deportation and obtaining immigration status in the United States. Lauren assisted clients in developing applications for asylum and cancellation of removal, and also researched and developed arguments on behalf of clients in favor of voiding an invalid waiver of appeal in one case, and arguing against finding constructive abandonment of Lawful Permanent Residency in another. Lauren also conducted crim-imm analyses for a client's current convictions and pending charges, to assist his public defender in negotiating for immigration-safe convictions on the one hand, and seeking post-conviction relief for his current convictions on the other. Finally, Lauren researched and wrote a motion to terminate immigration proceedings for a client based on egregious constitutional violations in his arrest and processing, invoking fruit of the poisonous tree, judicial integrity, and the *Accardi* doctrine.

MEETINGS WITH JUDGES, DISTINGUISHED PRACTITIONERS, AND FORMER FELLOWS

As in past years, the Fellows met throughout the year with Distinguished Practitioners and former Fellows who talked about their personal journeys and professional trajectories. This year we expanded our Distinguished Speakers series in two directions: to include judges whose professional work before the bench included work in the public interest, and lawyers doing legislative and policy work (as distinct from litigation). All of our sessions were by Zoom.

The fall kicked off with David Cole, longtime friend of the Hays Program and now Legal Director of the ACLU, who convened a lively discussion of First Amendment developments and the Supreme Court's docket.



David Cole—ACLU National Legal Director.



Anthony Enriquez '13—Director, Unaccompanied Minors Program, Catholic Charities Communities Services.

Anthony Enriquez, Hays Fellow 2013, spoke with the Fellows about his evolving work as an immigration lawyer. Anthony began his career as the Chadbourne & Parke Fellow at The Door's Legal Services Center, representing immigration and refugee youth facing deportation. After a clerkship with the Hon. Andrew L. Carter, Jr., in the Southern District of New York, he became an Equal Justice Works Emerson Fellow at the Immigrant Defense Project, where he created a legal advocacy program against immigration detention. In 2018, Anthony became Director of the Unaccompanied Minors Program at Catholic Charities Communities Services. In that role he also oversees the legal staff of Terra Firma, the nation's first medical-legal partnership for immigrant children.

Roscoe Jones, Jr., Counsel at Gibson, Dunn & Crutcher, spoke about his decade-long work on Capitol Hill, most recently as Chief of Staff to Representative Abigail Spanberger, as Legislative Director to Senator Dianne Feinstein, as Senior Counsel to Senator Cory A. Booker, and as Counsel, and later Senior Counsel, on the Senate Judiciary Committee for then-Chairman Patrick Leahy.



Roscoe Jones, Jr.—Counsel, Gibson, Dunn & Crutcher.



District Judge Victor A. Bolden, District of Connecticut.

Finally, we were thrilled to host a conversation with District Judge Victor A. Bolden of the United States District Court for the District of Connecticut. Judge Bolden was sworn

in as a District Judge in 2015, and began his career in 1989 as a Karpatkin Fellow and then as a staff attorney at the ACLU National Legal Department (when Norman Dorsen was President and Helen Hershkoff was an Associate Legal Director). In 1994, he became an assistant counsel with the NAACP Legal Defense and Educational Fund; in 2000, he joined the law firm of Wiggin and Dana in New Haven; in 2005 he returned to the NAACP Legal Defense Fund; and in 2009, he was appointed the Corporation Counsel for the City of New Haven.

In the spring, Laura Arandes, Hays Fellow 2011, joined the Fellows to talk about her current work as a Supervising Attorney at Civil Rights Corps, a Washington, DC based law office, where she supervises impact litigation challenging the criminalization of poverty and abusive prosecutorial practices. From 2014 to 2019, Laura worked as a civil rights associate at Relman, Dane & Colfax, also in DC, having clerked with Judge Martha Craig Daughtrey in the Sixth Circuit Court of Appeals and with Judge Gladys Kessler in the District Court for the District of Columbia immediately after graduating from NYU Law.

The year ended with an inspiring conversation with Lynn Kelly, a 1982 NYU Law alum, whose career began as a staff attorney in the Park Place Trial Office of The Legal Aid Society and took her to leadership positions at The Legal Aid Society (where she served as Director of Litigation of the Harlem Neighborhood Office); MFY Legal Services (where she served as Executive Director); and at the City Bar Justice Center (where she served as Executive Director from 2007 until March 2021).



Laura Arandes '11, Supervising Attorney, Civil Rights Corps.



Lynn Kelly—NYU Law 1982; Former Executive Director, City Bar Justice Center.

SUMMER SESSIONS ON FELLOWSHIP OPPORTUNITIES

The pandemic posed special challenges for mentorship and friendship. Through technology, we were still able to encourage enthusiasm, build solidarity, and provide support. We began the Program earlier than usual by hosting two Zoom panels during the

summer. These panels focused on post-graduate fellowships and allowed the Fellows to talk with former Fellows who had successfully navigated the application processes and received funding to work at an established non-profit organization or to establish a new and special project.

Panel 1 focused on the Skadden Fellowship and featured:

Juan Bedoya '20, working at the Political Asylum/Immigration Representation Project, providing wraparound legal support, including child welfare, housing, and public benefits-related services to young immigrant parents and pregnant persons in the Boston area.

Mason Pesek '18, working at the Legal Aid Society of Cleveland, where he established workers' rights clinics in two low-income Cleveland neighborhoods.

Samantha Reiser '18, working at the Legal Action Center in New York, representing clients and doing policy advocacy to combat employment barriers and socioeconomic consequences facing low-income New Yorkers with criminal records.

Allison Zimmer '18, working at the Louisiana Center for Children's Rights, providing direct representation and policy advocacy to protect the special education rights of New Orleans youth during and after juvenile incarceration.



Juan Bedoya '20



Mason Pesek '18



Samantha Reiser '18



Allison Zimmer '18

Left to right, Former Fellows

Panel 2 featured:

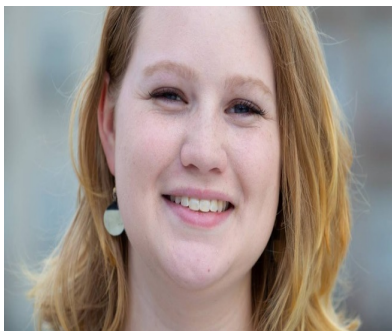
Brittany Castle '19, an Equal Justice Works Fellow working on immigration issues in New York.

Libby Lewis '20, a Justice Catalyst Fellow in Chicago at the Community Activism Law alliance.

Gerardo Romo '19, a Karpatkin Fellow at the ACLU Racial Justice Program in New York.



Brittany Castle '19



Left to right, Former Fellows
Libby Lewis '20 Agus



Gerardo Romo '19

THE DIRECTORS

Sylvia A. Law

Sylvia continued her relation with NYU Law as Co-Director of the Hays Program, Chair of the Health and Benefits Area Group, advisor to the student Health Law Society, and a member of the Rose Sheinberg Committee, now chaired by Naomi Sunshine, Hays Fellow 2004–05.

After helping to select a magnificent group of Hays Fellows in March 2020, Sylvia spent the year in Hawaii. After a year of working with Fellows remotely, Sylvia relished lunch with individual Fellows while in New York.

In Hawaii, Sylvia continued local work with advocates, public health officials, and health care providers, assessing measures to slow the pandemic, and resisting arguments that federal law prohibited sensible state choices. On a national level, she continued work on more general health law issues, participating in remote conferences, co-teaching, classes, and organizing and constructing amicus briefs. She wrote letters and made calls promoting colleagues and students for jobs, fellowships, and political appointments.

The [27th Annual Sheinberg Lecture](#) was presented by Cara Page, an architect of healing justice, a movement rooted in Southern, Black feminist traditions. Page was introduced by Professor Dorothy E. Roberts, George A. Weiss University Professor Law and Sociology and the Raymond Pace and Sadie Tanner Mossell Alexander Professor of Civil Rights at the University of Pennsylvania Law School. Despite the constrictions of the pandemic, the Sheinberg sessions were enlightening and healing.

Helen Hershkoff

Helen taught her usual complement of courses, but by Zoom: Civil Procedure for 1Ls in the fall and Federal Courts and the Federal System for upper-level students in the spring. In addition, she convened the Hays seminar with Sylvia, and also a Reading Group with 1Ls—this year the topic was “Reading Legal News.” The Law School-Tandon program offered Helen’s on-line course on introduction to law for non-lawyers. Unfortunately, the summer program at the University of Freiburg where Helen has taught for the last few years was canceled because of the pandemic.

Helen’s scholarship this year included: (1) Legal Culture, Optimal Delay, and Social Commitments: A Tribute to Vincenzo Varano, in *Civil Procedure and Legal Culture: A Tribute to Vincenzo Varano*, 295–313 (Vittoria Barsotti et al. eds. Giappichelli 2020) (with Stephen Loffredo); (2) Unequal Liberty and a Right to Education, 43 *N.C. Central L. Rev.* 1 (2020) (with Nathan D. Yaffe); (3) COVID-19 and Judicial Process: Interim Report from the United States, 24 *ZZPInt [Zeitschrift für Zivilprozess International]* 251 (2019) (with Arthur R. Miller); (4) Courts and Civil Justice in the Time of COVID: Emerging Trends and Questions to Ask, 23 *N.Y.U. J. Legis. & Pub. Pol’y* 320 (2021) (with Arthur R. Miller); and (5) Remembering Herman Benson, *NYU Labor and Employment Law News*, Issue 17, p. 11 (2020) (with Tom Geoghegan). Helen also co-authored the annual *Civil Procedure Supplement for Use with All Pleading and Procedure Casebooks*; prepared annual supplementation to Volume 14 of *Wright & Miller, Federal Practice and Procedure*; and co-authored an annual “Update Memo” on civil procedure.

In December 2020, upon Professor Oscar Chase’s retirement, the Dean appointed Helen to be President of the NYU Chapter of the Order of the Coif, and in April 2021 she convened a Zoom ceremony for the provisional inductees. In January 2021, Helen served as an external independent expert to the Bocconi University Legal Studies Award Committee. In April, Helen did a “lunch” talk by Zoom for the NYU Law Education Law Society. In June, she and co-author Nathan Yaffe attended a Zoom conference at the Wisconsin Law School on “Public Law in the States” and presented a paper, “Federalism and Federal Rights Minimalism: Overlooked Effects on State Court Education Litigation in Wisconsin,” to be published in the *Wisconsin Law Review*. The International Academy of Comparative Law appointed Helen, together with Judith Resnik ’75 (Arthur Liman Professor of Law, Yale Law School), as United States Co-Reporters for a project on the contractualization of civil procedure. At NYU, Helen served on the Chairholders Committee and as Chair of the Disciplinary Committee, on the Board of the Brennan Center for Justice, and as faculty supervisor to the NYU Journal of Legislation and Public Policy. She continued to serve on the board of the Urban Justice Center and Party for Humanity, and as a volunteer interviewer with the Schools Committee of the Harvard Club of New York.

Finally, Helen joined or contributed to a number of amicus briefs and public statements pertinent to civil procedure, federal jurisdiction, and constitutional law: *Graff v. Aberdeen Enterprises* (10th Cir. No. 21–5031 2021) (discussing scope of abstention doctrine); *Wolfe v. McDonough* Fed. Cir. No. 20–1958 2021) (discussing authority to issue

writs of mandamus to address important legal questions); *John Doe 7 v. Chiquita Brands International, Inc.* (U.S. No. 20-1599 2021) (discussing whether to grant certiorari on the burden of proof for modifying a stipulated protective order); *BP v. Mayor and City Council of Baltimore* (U.S. No. 19-1189 2020) (discussing scope of review under 28 U.S.C. § 1447(d)); *Doe v. United States* (U.S. No. 20-559 2020) (discussing whether to grant certiorari on the scope of the Feres doctrine and “incident to service” as a ground for dismissal in suit under the Federal Tort Claims Act involving claims of sexual assault of students in military academies); *Tedards v. Ducey* (U.S. No. 19-1427 2020) (discussing whether to grant certiorari on the constitutionality under the Seventeenth Amendment of a state law that permitted unelected Senator to hold office for more than two years); *Aybar v. Ford Motor Company* (N.Y. App. Div. 2d Dept. APC-2019-00239 2020) (discussing constitutionality of using the New York business registration statute to obtain personal jurisdiction over a non-resident company in products liability suit); *Wisconsin Legislature v. Palm* (Wis. Sup. Ct. No. 2020 AP 765-0A) (discussing constitutionality of a state law that authorizes executive action to protect public health); *Palmer v. Amazon* (2d Cir. No. 20-3989 2021) (discussing availability of abstention based on primary jurisdiction doctrine in diversity action); *Douglas v. Nippon Yusen Kabushiki Kaisha* (5th Cir. No. 20-30382 2020) (discussing constitutional test for application of Fed. R. Civ. P. 4(k)(2) in admiralty actions); *Committee on the Judiciary of the United States House of Representatives v. McGahn* (D.C. Cir. No. 19-5331 2020) (discussing standing to redress the violation of Congress’s right to investigate and gather information); *Roman v. Wolf* (9th Cir. No. 20-55436 2020) (discussing scope of habeas corpus remedies on behalf of immigrant detainees during pandemic); *Reid v. Donelon* (1st Cir. No. 19-1787 2020) (discussing propriety of class action to redress due process violations); Statement of Law Professors in Support of the Nomination of Myrna Perez to be a Judge on the U.S. Court of Appeals for the Second Circuit (July 12, 2021); Statement of Law Professors in Support of Professor Alexander Reinert to be a Federal Judge (June 2021); Statement of Law Professors in Support of S1991/A4331 (Creating a State-Law Cause of Action for Constitutional Violations) (Apr. 2021); Statement of Former Leaders of the American Civil Liberties Union and Concerned First Amendment Scholars Calling for the Speedy Enactment of H.R. 1, the For the People Act (Feb. 24, 2021); Statement of Law Professors in Opposition to Florida HB1/SB484, the Combatting Violence, Disorder and Looting and Law Enforcement Protection Act (Feb. 20, 2021); Statement of Law Professors Calling for the Immediate Removal of Trump from Office, American Constitution Society (Jan. 7, 2021).

Introducing Deborah N. Archer

Deborah N. Archer is a Professor of Clinical Law and Co-Faculty Director of the Center on Race, Inequality, and the Law at NYU School of Law. Deborah also is the President of the American Civil Liberties Union and a leading expert in civil rights, civil liberties, and racial justice. She is an award-winning teacher and scholar (among other honors, she received a 2021 Podell Distinguished Teaching Award from NYU Law and the 2021 Stephen Ellmann Memorial Clinical Scholarship Award from the American Association of Law Schools) and offers regular commentary for media outlets. Deborah's

recent scholarship has focused on overlooked issues in civil rights law that affect racial justice, including federal exclusionary policies in housing, <https://repository.law.umich.edu/mlr/vol118/iss2/2/>, and the connection among racial inequality, transportation policy, and infrastructure, <https://vanderbiltlawreview.org/lawreview/2020/10/white-mens-roads-through-black-mens-homes-advancing-racial-equity-through-highway-reconstruction/> (this article received the John Hope Franklin Prize, Honorable Mention, from the Law and Society Association).

Deborah is a graduate of Yale Law School, where she was awarded the Charles G. Albom Prize, and Smith College. Before entering the academy, she worked as an attorney with the ACLU and the NAACP Legal Defense and Educational Fund, Inc., where she litigated in the areas of voting rights, employment discrimination, and school desegregation. She is a former chair of the American Association of Law School's Section on Civil Rights and the Section on Minority Groups. She also previously served as Chair of the New York City Civilian Complaint Review Board, the nation's oldest and largest police oversight agency.

We are honored that Deborah will dedicate her time and talent to the Hays Program. You can reach Deborah at: archerd@mercury.law.nyu.edu.

JAMES MADISON LECTURE

The James Madison Lecture is the leading annual lecture at NYU Law School. It was founded in 1959 to “enhance the appreciation of civil liberty and strengthen the sense of national purpose.” The lecturers are limited to U.S. Supreme Court justices and judges of the Courts of Appeals. Fifteen Supreme Court justices and thirty-four Court of Appeals judges have delivered Madison lectures. Norman directed the Madison lectures from 1977 until his death. It is administered as part of the Hays Program. Norman asked Professor Stephen Gillers, Hays Field Fellow 1968, to assume responsibility for the Madison Lecture. The 2020 Lecture was delivered by the Hon. James Wynn of the United States Court of Appeals for the Fourth Circuit.



The Hon. James Wynn,
United States Court of Appeals, Fourth Circuit.

IN MEMORIAM

We are sad to announce the passing of Kate Froehlich Hays on April 1, 2021 after a three-year struggle with leukemia. Kate is the granddaughter of Arthur Garfield Hays and the daughter of Lora Hays, whose documentary about the Hays Program appears on the Program's website. Kate is survived by her partner Jeffrey Brown of Toronto, her son Eliot Lothrop and his spouse Mary of Vermont, and grandchildren Mason and Isabella. Kate was a pioneer in the field of sports, exercise, and performance psychology. In 2020, she received a Presidential Citation from the American Psychological Association for her contributions and accomplishments in this field. The family has asked that donations in Kate's memory be made to the Hays Program.



In memoriam: Kate Froehlich Hays, granddaughter of Arthur Garfield Hays.



Arthur Garfield Hays' great grandson, Eliot Lothrop, with his children in the Hays Seminar Room at NYU School Law, Furman Hall.

FELLOWS' NEXT STEPS

Elisabeth Campbell has accepted a position as an Honor Attorney at the National Labor Relations Board. She is looking forward to a new stage and a move to Washington, DC.

Paul-Winston Cange will be working as a litigation associate at White & Case in Washington D.C.

Isaac Kaplan will be at Mobilization for Justice (MFJ) serving as a housing attorney in the South Bronx.

Rachel Maremont will be moving to Portland, Oregon, where she will be joining the Metropolitan Public Defender as a staff attorney in the misdemeanor unit.

Meena Roldán Oberdick will work as a two-year Equal Justice Works fellow at LatinoJustice, where she will document and challenge the widespread effects of precision policing tactics used to surveil, police, and criminalize Latinxs on Long Island, New York.

Lauren Wilfong will be a 2021–2022 Justice Catalyst Fellow at Justice Action Center, an immigrant rights impact litigation organization that works nationally. Lauren will help detained people challenge the legality of their immigration detention and seek release in federal court through strategic litigation and by fostering a rapid response habeas network, connecting detainees with pro bono counsel, and developing a digital hub to support habeas practitioners.

NEW FELLOWS

Trip Carpenter (Tom Stoddard Fellowship)

Johari Menelik Fraiser (Palmer Weber Fellowship)

Camara Stokes Hudson (Norman & Harriette Dorsen Fellowship)

Miranda Katz (Harriet Pilpel Fellowship)

Shirley LaVarco (Leonard Boudin Fellowship)

Mac McMechan (Sylvia Law Fellowship)**

Edward Ye (Roger Baldwin Fellowship)

This year's applicant pool was large, strong, and diverse. Working remotely, the current Fellows did energetic, effective recruitment. Because of the pandemic, we altered our usual two-tier interview format; but as in the past, the new Fellows were selected following interviews by the Directors and current Fellows on the basis of their demonstrated commitment to civil liberties, their public interest experience, and their academic qualifications.

Gail Thomas continues her dedicated work as administrative assistant and secretary to the Hays Program, and we thank her. We also thank and wish a fond farewell to Ian Brydon, Helen's assistant, who contributed in myriad ways to the Program and left NYU Law in August 2021 before the start of the fall term.

For further news on the Hays Program, visit our [website](#). The site also provides a link to the videos of prior Hays events, Lora Hays's video about the Hays Program, prior annual reports, and Madison Lectures published in the New York University Law Review. Please update your contact information so we can stay in touch. Stay safe and well, and we hope to see you in person before not too long.

Sylvia A. Law
Helen Hershkoff

** Mac's Fellowship runs from Spring 2022 through Fall 2022.