

ALLIANCE FOR JUSTICE REPORT

# Nomination of Edmund LaCour

*District Court for the Middle District of Alabama*



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Alliance for Justice Report:

# Edmund LaCour

*Alliance for Justice strongly opposes Edmund G. LaCour's confirmation to the District Court for the Middle District of Alabama. Like many of Trump's judges, LaCour would be an ideologue, dedicated to advancing a conservative political ideology, rather than the neutral administration of justice. His demonstrated opposition to voting rights throughout his career — especially at the height of the COVID-19 crisis — abortion access, and environmental protections, as well as his tough-on-crime approach to criminal justice are disqualifying for a lifetime appointment.*

## Introduction

On June 2, 2020, President Trump [nominated](#) Edmund G. LaCour to serve as a judge on the United States District Court for the Middle District of Alabama. If confirmed, LaCour would take the seat previously held by Andrew Brasher, who was recently confirmed to the Eleventh Circuit Court of Appeals. In a [state](#) that is 27% Black, LaCour would be the 15th white judge of the 18 district court judges in Alabama. He would be the fifth white judge of the six district court judges for the Middle District of Alabama, a district that included over 418,000 African American individuals as of 2018, more than 36 percent of the district's population.

Edmund LaCour is 35 years old and has only practiced law for nine years. His ultraconservative approach to voting rights, civil rights, and criminal justice reveal his apathy to the long history of racial oppression and the continued legacy of discrimination in his home state of Alabama. He has fought equality for women, including opposing ratification of the Equal Rights Amendment and using the COVID-19 crisis as an excuse to limit the ability of women to exercise their right to an abortion. His positions on worker protections, gun safety, and the environment further demonstrate his partisan conservative ideology. He will bring this ideology to the bench if confirmed.

His radical beliefs coupled with his disregard for the rights of minority Americans in a state with a long history of racial oppression demonstrate that he should not be confirmed as a judge in the Middle District of Alabama.

## Background

Edmund G. LaCour received a Bachelor of Arts from Birmingham-Southern College in 2007, a Master of Philosophy from Trinity College Dublin in 2008, and a Juris Doctor from Yale Law School in 2011. He has been an active member of the Federalist Society, a nationwide conservative legal organization that has had an inordinate [influence](#) on appointments to the federal judiciary. After graduating from law school, LaCour clerked for William Pryor Jr. on the U.S. Court of Appeals for the Eleventh Circuit. He then clerked for the Office of the Texas Attorney General, Solicitor General's Division. After working as an Attorney Volunteer on the Romney for President campaign in 2012, he went on to work at a number of corporate law firms, including Baker Botts, Bancroft PLLC, and Kirkland & Ellis, LLC.

In 2016, as an attorney at Bancroft in Washington, DC, he [wrote](#) a motion for preliminary injunction alongside Alliance Defending Freedom (ADF), challenging North Carolina State University's Speech Permit Policy, which required individuals and organizations conducting solicitation on the university's premises to receive written permission to ensure that the university's "[educational](#) mission can be conducted and to maintain a safe and secure campus." The Southern Poverty Law Center identifies ADF as a hate group, noting that it has "supported the recriminalization of sexual acts between consenting LGBTQ adults in the U.S. and criminalization abroad; has defended state-sanctioned sterilization of trans people abroad; has contended that LGBTQ people are more likely to engage in pedophilia; and claims that a 'homosexual agenda' will destroy Christianity and society."

Alabama Attorney General Steve Marshall appointed LaCour deputy solicitor general in December of 2018 and elevated him to be solicitor general in May of 2019.

## Voting Rights

His entire — albeit brief — legal career, LaCour has been relentless in fighting to make it harder for African Americans to vote in Alabama.

Just two years out of law school, LaCour worked on an [amicus brief](#) on behalf of the Southeastern Legal Foundation in *Shelby County v. Holder*, which supported the erosion of the Voting Rights Act (VRA). The brief shockingly argued that the primary condition that necessitated the Voting Rights Act, voter discrimination based on race, no longer existed in the American South. Following the Supreme Court's decision in *Shelby County*, states and localities throughout the country passed restrictive [voting laws](#) that disproportionately disenfranchised voters of color who had previously been protected under the VRA.

More recently, LaCour [fought](#) a lawsuit brought by the Alabama State Conference of the NAACP and several Black voters arguing that at-large elections for judges in the state are racially discriminatory and violated Section 2 of the Voting Rights Act (*Alabama v. Alabama State Conf. of the NAACP*). The plaintiffs argued that Alabama’s method of electing judges dilutes the power of African Americans in the state. In their brief, the plaintiffs [wrote](#), “No African American has won an election for the Alabama Supreme Court without first being appointed to office by the Governor and that has only occurred three times in almost 200 years.” LaCour argued that states are entitled to sovereign immunity under Voting Rights Act and cannot be sued by individuals, a radical argument that was rejected by a panel of judges on the Eleventh Circuit Court of Appeals (albeit adopted in dissent by Trump-appointed judge Elizabeth Branch).

LaCour is currently defending an Alabama law that requires voters to sign an absentee ballot in the presence of a notary or two witnesses, requires a photo ID to apply for an absentee ballot, and prohibits curbside voting at polling places in a lawsuit brought by the NAACP Legal Defense Fund, Alabama Disability Advocacy Program, and Southern Poverty Law Center. On June 15, 2020, a federal district court judge in Alabama issued a [preliminary injunction](#) on Alabama’s restrictions on absentee ballots. In his ruling, Judge Abdul K. Kallon noted that, if the state’s election laws were allowed to stand, “individual plaintiffs and similarly-situated voters could likely face a painful and difficult choice between exercising their fundamental right to vote and safeguarding their health.” On June 25, the Eleventh Circuit [denied](#) a request by Alabama state officials for an emergency stay of Judge Kallon’s preliminary injunction, noting that the state’s argument “reflects a serious lack of understanding of or disregard for the science and facts involved here.” The Supreme Court has since [stayed](#) the 11<sup>th</sup> Circuit ruling at Lacour’s [request](#) in a 5-4 ruling, allowing Alabama to restore the voting restrictions.

## Civil Rights

LaCour joined Rep. Mo Brooks in a [lawsuit](#) against the Department of Commerce, challenging the Department’s decision to include all U.S. residents in the census count totals used for apportioning electoral college votes, congressional seats, and federal funding. Alabama sought to force a citizenship question to appear on the census even after the Trump administration retreated from the rule following a Supreme Court ruling that labeled the question as “[contrived](#)”. The effort to include a citizenship question was widely regarded as an attempt to discourage participation by immigrant groups. The case is pending in the U.S. District Court for the Northern District of Alabama and is “[unlikely](#) to succeed.”

LaCour filed a [brief](#) on behalf of the state of *Alabama in Alabama, et al. v. Ferriero*, opposing ratification of the Equal Rights Amendment, a constitutional amendment that would ensure legal equality for all Americans regardless of

sex. The state of Alabama, along with Louisiana and South Dakota, are suing David S. Ferriero in his official capacity as archivist of the United States to block ratification of the ERA and [delete](#) the ratifications of five states (Idaho, Kentucky, Nebraska, South Dakota and Tennessee) that have voted to rescind their approval. The case is currently waiting to be heard by the District Court for the Northern District of Alabama.

He also [defended](#) an Alabama law that set a uniform minimum wage and preempted Birmingham's higher minimum wage against a lawsuit brought from the NAACP. It argued that Alabama's law was racially discriminatory and an attempt to "perpetuate... political white supremacy" because it prevented the majority-black city of Birmingham from raising its minimum wage. The Eleventh Circuit Court of Appeals ultimately ruled for the state of Alabama, finding that the plaintiffs lacked standing.

## Abortion Rights

LaCour has been a strong opponent of abortion rights, defending the Alabama Human Life Protection Act as solicitor general. The law, passed in 2019 and informally known as Alabama's abortion ban, would make abortion and attempted abortion felony offenses except in [cases](#) where abortion is necessary in order to prevent a serious health risk to the pregnant individual. LaCour [defended](#) the law in *Robinson v. Marshall*. He submitted a brief stating that it is "the judgment of the State that each human life, from the moment of conception, is worthy of protection from lethal violence." He argued that *Roe v. Wade* and *Planned Parenthood v. Casey*, two landmark abortion-rights cases, were "unworkable" and "illegitimate." In this brief he claimed that "the Supreme Court's abortion precedents [...] were wrongly decided" and rested on the "the demonstrably false proposition that it is unclear whether a fetus is a human life." He went on to state that "Attorney General Marshall will ask the Supreme Court to overrule these obviously and tragically wrong decisions," revealing the state's ultimate intention. A federal judge in the Middle District of Alabama [blocked](#) this near-total ban from taking effect in October 2019.

When the coronavirus pandemic hit, Dr. Scott Harris, the Alabama Health Officer, entered an emergency order postponing all non-emergency medical procedures, including [abortions](#). When the District Court for the Middle District of Alabama filed a preliminary injunction enjoining the state from carrying out this order, LaCour filed a [brief](#) to the Eleventh Circuit Court of Appeals defending the emergency order. He argued that postponing abortion for the duration of the order "does not constitute an undue burden" and "delay of a few weeks for public health reasons does not amount to a total denial," despite the often time-sensitive need for emergency medical care during pregnancy. A panel of judges on the Eleventh Circuit [denied](#) LaCour's motion for a stay of the preliminary injunction, agreeing with the District Court that "a mandatory *one-month* postponement of abortion is also substantially likely to impose an 'undue burden.'"

In the aforementioned *Alabama et al. v. Ferriero*, LaCour argued against the ERA, in part because, if passed, “[activists](#) would urge courts to use the amendment to overturn legitimate regulations of abortion and to mandate state funding of abortions.”

## Workers’ Rights

In addition to defending Alabama’s efforts to nullify Birmingham’s higher minimum wage, discussed above, LaCour [represented](#) the International Franchise Association in a lawsuit opposing Seattle’s plan to impose a fifteen dollar minimum wage. He claimed the minimum wage imposed a discriminatory burden on states solely based on their ties to interstate commerce.

In 2010, the Department of Labor issued a pronouncement that declared that mortgage loan officers’ duties did not fall within the administrative employee exception for overtime wages and as a result, these employees became eligible for overtime pay under the Fair Labor Standard Act. LaCour filed a [brief](#) on behalf of the Mortgage Bankers Association, a national trade organization that represents real estate financial companies, opposing the expanded overtime wages. The Supreme Court ultimately ruled against LaCour and the businesses in a [unanimous opinion](#) (*Perez v. Mortgage Bankers Association*).

## Criminal Justice

In private practice, LaCour [opposed](#) a section of the New Jersey Criminal Justice Reform Act that, according to the [ACLU](#), “effectively eliminated money bail, creating a presumption of release for the vast majority of defendants and ensuring that people do not languish in jail awaiting trial simply because they are poor.” He represented a Florida company based in Maryland that operated through independent bail bondsmen seeking to force New Jersey to use commercial bail bonds companies. The Third Circuit Court of Appeals affirmed the District Court’s ruling in favor of the Act’s provision.

As Alabama solicitor general, he wrote a [brief](#) claiming that a warden was entitled to qualified immunity when he ordered a hospital to end life support and enter a do-not-resuscitate order for an inmate who had been stabbed by another inmate despite the fact that the individual was breathing and responsive (*Davenport v. Estate of Marquette Cummings*). In an Eleventh Circuit panel [opinion](#) written by Judge William Pryor, the court held that the warden’s discretionary authority did not extend to the alleged actions and therefore the warden was not entitled to qualified immunity. A petition for certiorari to the Supreme Court was denied.

As Alabama Solicitor General, LaCour [filed](#) an Emergency Motion to Vacate a

Stay of Execution to the Supreme Court after the Eleventh Circuit had ordered the stay because the state's method of execution was likely to cause petitioner severe pain and suffering (*Price v. Dunn*). He submitted a [brief](#) arguing that the death penalty is not a violation of the Eighth Amendment. (*Woodward v. Alabama*). He [opposed](#) a cert and stay of execution in a capital murder case where the petitioner argued that there was an Eighth Amendment violation because he was under the age of twenty-one when the crime was committed (*Samra v. Alabama*). He [argued against](#) an Atkin's Claim, a legal defense that bars executing individuals with intellectual disabilities as a violation of the Eighth Amendment, despite evidence that the individual had a low IQ and multiple doctors' claims that his adaptive functioning was impaired (*Carroll v. Alabama*).

## Environmental Protection

LaCour filed a [brief](#), joined by 12 other states, supporting the Trump Administration's significant weakening of the Endangered Species Act in *Animal Legal Defense Fund v. David Bernhardt, U.S. Secretary of the Interior, et al.* The rollbacks of the ESA [include](#) making it easier to "delist" species, allowing economic factors rather than scientific conditions to be considered, and making it harder to designate an area as "critical habitat" even amidst the growing climate crisis. The District Court for the Northern District of California ultimately [granted](#) Bernhardt's Motion to Dismiss based on lack of standing.

LaCour also [joined](#) a brief with Ohio, Texas, Utah, West Virginia, Alaska, and Louisiana suing California for its efforts to set its own fuel efficiency standards under the Clean Air Act. The Trump administration, in what has been called its [biggest climate rollback yet](#), revoked California and other states' ability to set stricter fuel efficiency standards as part of an Obama-era effort to combat climate change. The brief argues that California setting its own standards "upsets the balance of federalism."

## Gun Safety

LaCour has fought common sense gun safety measures. At Kirkland & Ellis LLP, he co-authored [briefs](#) arguing that a fee on firearm purchases in California, earmarked for a special law enforcement program to track down people who possess firearms illegally, was unconstitutional (*Bauer v. Becerra*). In *Peruta, et. al v. State of California, et. al*, at the same firm, LaCour [challenged](#) a California law that required an applicant to demonstrate "good cause" to obtain a concealed-carry license. Again, at Kirkland & Ellis LLP, he [represented](#) Rifle & Pistol Assn. in a lawsuit challenging New York City's ban on transporting a licensed, locked, and unloaded handgun to a home or shooting range outside city limits (*New York State Rifle & Pistol Assn. Inc. v. NYC*). Finally, as solicitor

general of Alabama, he filed a [brief](#) opposing a Maryland law that prohibited citizens from carrying handguns outside the home (*Malpasso v. Pallozzi*).

## Conclusion

Edmund G. LaCour's short career is rife with examples of using the law to promote a conservative political ideology. On issues spanning the political spectrum, LaCour has consistently promoted the interests of powerful actors rather than historically marginalized groups. In this moment and in a state still confronting its legacy of slavery, segregation, and its role in the promulgation of white supremacy, LaCour's stances on civil rights, including the right to vote, are disqualifying for anyone nominated to a lifetime seat as a federal judge. Alliance for Justice strongly opposes Edmund G. LaCour's confirmation to the District Court for the Middle District of Alabama.