

Dear Senator Hashim:

I urge you to vote in favor of Mike Drescher's appointment to the Supreme Court. I worked with Mike and know him to be a true public servant with an unimpeachable moral compass. Our office benefited immensely from his leadership this past year, despite his not having sought the top job, and his retirement was greeted with tears. But we nevertheless were overjoyed because of what a wonderful justice he would make. Mike is incredibly empathetic and would consider every issue before him with the utmost concern, regardless of how unimportant it might seem. He would rigorously uphold his obligations as a judge and not be swayed improperly by optics or public opinion, as he is governed by an unshakable belief in the law and, in particular, the role that courts play in upholding justice.

I understand that the committee has received many emails in opposition to Mike. I also understand that many of those emails are the product of a campaign based on an incorrect or at best incomplete version of the facts, directing people to oppose him (complete with template language) on the ground that his representation of the government in the Ozturk and Mahdawi cases disqualifies him. I understand that Mike presents an easy target for people's anger towards ICE. But it is completely unfair to reject him on this basis, and it is the role of this committee to vote based on the actual facts, not constituent misconceptions. Every person with whom I've discussed this situation, upon hearing the details, has said: it sounds like he bravely fell on a grenade, and that's not what the reporting or mass emails led me to understand.

Being an attorney is tough. Sometimes your client has the righteous side and sometimes it doesn't. Public defenders routinely fight for evidence of their client's crimes to be thrown out, without condoning those crimes. Being a government attorney is particularly challenging. Sometimes you agree with the position that the government takes and sometimes you don't. Policies can change every four years, and yet career attorneys remain, expected to advocate on behalf of the government, whether or not they personally agree, so long as the arguments are legally legitimate. As Mike has explained, the position he defended in the immigration cases is about the complicated issue of which is the proper court to challenge actions ICE takes. It's not decided law, and an appellate court just this week came out in favor of the government. Mike didn't choose the position he had to defend, but at no time did Judge Sessions or Judge Crawford fault him for those positions even when they ultimately disagreed.

All of the above is nuanced, and it's simpler for people to just say, Mike represented ICE, he cannot be a fair jurist. Or he should have quit. But that is a knee-jerk reaction that does a huge disservice to all career public servants, whom many of the same people opposed to Mike are begging to stay in their jobs and continue to do the right thing, which sometimes is subtle and not obvious from the outside. It is deeply illiberal to discredit attorneys for advocating on behalf of their clients and beyond disheartening to see Vermonters turn on one of their own, who has

foregone a lucrative career in the private sector for 24 years of dedicated, nonpartisan service to the government.

That Mike is being attacked based on these cases is particularly frustrating because his taking them is itself proof of his integrity and kindness. Those cases are civil, not criminal, and as a criminal prosecutor who also was leading the office (with acting US Attorneys almost never taking cases themselves), he had no role to play in them whatsoever. None. They should have fallen to others to defend, and to be clear, there is no prosecutorial discretion in defensive cases. There is no option to say, we'll pass. The only question is who will do them. If one person says no, it goes to a colleague. Yet, instead of steering clear of the cases, Mike took the extraordinary step of handling them himself, despite the personal cost of doing so. Throughout the cases, he reiterated his belief that the role of a government attorney is to put the government's position before the court without delay or evasion and to trust that the court will get the law right. That firmly-held belief in the power of the courts to uphold the law and his honorable actions even at the risk of his own reputation are what make Mike such a compelling candidate for the Vermont Supreme Court.

I've always been glad that in Vermont, judges are appointed and not elected. It's such an important role, and it needs to be insulated from popularity contests and simplistic reductions of a person's record as an attorney. Mike Drescher has had a long career of pursuing justice in addition to being, simply put, a wonderful person. Please do the right thing and confirm him to the bench.

Sincerely,

Lauren Lively