

VALLEY NEWS

EDITORIALS

Editorial: Vermont Supreme Court nominee's commitment to rule of law in question



by Valley News Editorial Board

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Vermont Supreme Court nominee Michael Drescher, center, speaks before the Senate Judiciary Committee as fellow nominee Christina Nolan, second from left, listens at the Statehouse in Montpelier on Tuesday, January 13, 2026. GLENN RUSSELL / VtDigger



Editorial: Vermont Supreme Court nominee's commitment to public service, the rule of law and justice

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In nominating Michael Drescher to a seat on the Vermont Supreme Court earlier this month, Gov. Phil Scott said that Drescher, along with another nominee, Christina Nolan, had “demonstrated an extraordinary commitment to public service, the rule of law” and justice.

Return with us now to April, 2025. On April 14, masked Immigration and Customs Enforcement agents seized and detained Mohsen Mahdawi, an Upper Valley resident and Columbia University student, during a routine interview in Colchester, Vt., about finalizing his U.S. citizenship. (Mahdawi grew up in a Palestinian refugee camp before moving to the Upper Valley in 2014.) A legal permanent resident of the United States since 2015, Mahdawi was targeted for exercising his free speech rights to advocate for the Palestinian cause.

The following day, Scott issued a statement noting that Mahdawi’s legal status, “the Bill of Rights and the Constitution of the United States all grant him, and all people, fundamental rights – including due process.”

Scott went on to add, “Facts matter. If there is evidence that Mahdawi is a threat to the security of our nation, or Vermont, the federal government should make this information known, immediately. Probable cause based on real evidence is the only justification to deny someone their liberty, so if the federal government cannot produce that evidence, Mr. Mahdawi should be released.”

All true. But the government, in the person of Acting U.S. Attorney Michael Drescher, produced no such convincing evidence when Mahdawi’s detention was challenged in federal court, nor did he move to release Mahdawi. Drescher’s only contribution to the proceedings was to argue that federal district courts have no role to play in deportation matters. This argument was brushed aside by U.S. District Judge Geoffrey W. Crawford, who ordered Mahdawi’s release a couple of weeks later.

Drescher also appeared for the government in repeatedly opposing the release of Rumeysa Ozturk, a Turkish graduate student kidnapped off the streets of Somerville, Mass., by federal agents and spirited away through Vermont to detention in Louisiana. She was taken into federal custody on the basis of an op-ed she co-wrote for the Tufts University student newspaper.

In eventually ordering her release from custody, U.S. District Court Judge William K. Sessions III noted that,

“First Amendment protections have long extended to non-citizens residing in the country” and that the government had produced little evidence to hold her beyond the op-ed.

Sessions also noted that Ozturk was taken out of Massachusetts by federal agents despite a valid federal court order prohibiting them from doing so. They shuffled her among several jurisdictions, including Vermont, while keeping her lawyers in the dark about her whereabouts (which is why the Massachusetts court transferred jurisdiction to Vermont).

We will not presume to fathom how Scott squares Drescher’s arguments with “an extraordinary commitment to the rule of law.” But Vermont state senators considering Drescher’s confirmation ought to get answers to questions that arise from these cases.

Does he believe that the ancient doctrine of habeas corpus, under which people can challenge their detention in court, applies only to American citizens or to all people residing in the country? Scott apparently does.

Does he believe that federal courts have no role to play in deportation proceedings, as he argued?

Does he believe non-citizens have First Amendment rights to free speech?

In opposing Ozturk’s release, did he know that the government had ignored the Massachusetts court order that she not be removed from that state?

Drescher’s response to lawmakers’ questions about these two cases have so far amounted to, “I was just doing my job,” and “somebody had to do it.” He argued that it would be unfair to conclude that he backed the Trump administration’s immigration policies simply because he represented the government in court. “It would be similar to suggesting that a criminal defense lawyer should be responsible for her client’s crimes.”

This seems to us a fundamental misstatement of the role of U.S. attorneys. Criminal defense lawyers are duty bound to advocate zealously for their clients. While U.S. attorneys represent the government, their ultimate allegiance is to ensuring that justice is done and the rule of law upheld. When the government’s policies conflict with those ethical responsibilities, they must elevate a just outcome above advocacy for the government’s position. There have been notable examples around the country of government lawyers resigning rather than carrying out Trump administration policies that were at odds with the rule of law.

As for Drescher, he resigned only when a new job was on offer. That does not seem to us to indicate an extraordinary commitment to the rule of law that would qualify him for a seat on Vermont’s highest court.

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