

Why Michael Drescher's Service Strengthens—Not Undermines—His Supreme Court Nomination

This commentary is by Zachary Dayno. A Vermonter, he is an environmental lawyer who lives in the Upper Valley. He previously served as an Assistant United States Attorney for the Department of Justice in the United States Attorney's Office in Vermont. He left the Office in May 2025. The opinions expressed here are his own.

Governor Phil Scott has nominated Michael Drescher to serve on the Vermont Supreme Court. Vermont would be fortunate to have Mike on the bench. Yet as his confirmation proceeds in the Senate, some have urged lawmakers to vote “no”—pointing to Mike’s role representing the federal government in the high-profile immigration cases of Mohsen Mahdawi and Rümeysa Öztürk.

Critics who know Mike only through those cases have portrayed him as lacking the integrity or courage required of a Vermont Supreme Court justice. That narrative is deeply mistaken.

I was an Assistant United States Attorney in the Vermont U.S. Attorney’s Office when Mike took on those cases. Like many in the Office, I had chosen public service over private practice because I believed in the rule of law and in serving Vermonters. Career attorneys in that Office work across administrations, doing their best each day to make our state safer and more just. Mike Drescher embodies the finest traditions of that work, with more than two decades of steady, principled public service.

Upon President Trump’s inauguration, the former United States Attorney for Vermont—appointed by President Biden—resigned, as often happens during a presidential transition. This meant that Mike, as the second-in-command, assumed leadership of the Office by default. Mike did not seek out a leadership role under the Trump administration. That responsibility fell to him by virtue of his senior position during the prior administration.

At a time when career civil servants were under attack from their own government, it would have been easy for Mike to step back into a smaller role. Instead, he stepped forward, not for power or prestige, but because he cared deeply about the institution and the people who served within it.

A few chaotic months later, the Office was assigned two immigration cases that quickly drew national attention. It is important to clarify what happened next. No one in the Vermont U.S. Attorney’s Office decided to initiate these cases. Mr. Mahdawi and Ms. Öztürk filed habeas petitions challenging their detention—in other words, they sued the federal government—and the government was obligated to respond. And because the

lawsuits were filed when Mr. Mahdawi and Ms. Öztürk were physically in Vermont, those cases became the Office's responsibility.

Mike faced a choice. He could have followed normal protocol and let those cases be assigned to members of the Office's Civil Division, a small group of attorneys of which I was a member. After all, Mike usually had no direct involvement in civil cases; his primary responsibility was running the office. Mike, however, did not do the easy thing. Instead, he made the harder choice: he took the cases himself.

Some will undoubtedly argue that Mike should have resigned, followed by the entire Civil Division. As we have seen elsewhere, resignations would not have made the cases disappear; they would have been taken over by political appointees from the Justice Department. For this reason, career attorneys have been urged to stay in their positions so that they can continue to handle cases with honesty and integrity.

In filing their lawsuits against the federal government, Mr. Mahdawi and Ms. Öztürk were guaranteed their day in court—as they should and must be under our constitutional system of government. I think people need to ask themselves: was it better for the government's lawyer to be Mike—a thoughtful, longtime public servant and Vermonter—or an unknown political appointee from Washington?

I firmly believe that Mr. Mahdawi and Ms. Öztürk should never have been targeted for deportation proceedings simply for exercising their First Amendment rights. But to correct that wrong, they needed to have their day in court. For that process to play out, as a practical matter, *someone* had to represent the government.

Mike made the difficult decision to take these cases himself. He did so fully aware of the personal and professional risks. His decision shielded his colleagues so they could continue doing the essential work of the Office: prosecuting opioid manufacturers, protecting seniors from fraud, enforcing civil rights laws, and safeguarding vulnerable Vermonters, among many other responsibilities.

Mike Drescher's leadership during that period was not a moral failure. It was an act of responsibility and courage under constraint. He weighed imperfect options and chose the one that best upheld the rule of law, protected his colleagues, and preserved the integrity of the Office.

That judgment—the ability to confront hard facts, resist political pressure, and act deliberately—is precisely what we should seek in a justice on Vermont's highest court.