

January 27, 2026

Senator Hashim,

This letter responds to your request for more detail regarding my state court experience.

In private practice, I recall defending one person in state court charged with a crime. After analyzing the facts, law, and several communications with the Deputy State's Attorney, I obtained a resolution in which the client pleaded on favorable terms. I recall handling an arraignment, a change of plea, and a sentencing hearing. I recall at sentencing the judge admonishing the defendant that this was a very good outcome. Neither pre-trial detention nor competency was litigated.

I handled at least one merits hearing, in Barre, involving the State's effort to involuntarily hospitalize an individual who had previously killed a person, but who had never been convicted due to mental health issues. The proceedings were supposed to be sealed, but the media succeeded in opening the hearings given the notoriety of the case. I represented the interests of the State because the Attorney General's office sought replacement counsel due to a conflict with the position taken by the pertinent State's Attorney's office.

I estimate participating in at least 15 contested motions hearings in state court. This estimate assumes that each of the three civil trials in which I appeared involved some combination of motions to dismiss, motions for summary judgement, as well as contested hearings relating to evidentiary questions and jury instructions. It also recognizes that some of my civil litigation cases did not go to trial due to dispositive motion practice.

I do not recall working on RFAs or anti-stalking matters. However, as a prosecutor I closely considered whether a defendant had been subjected to domestic violence-related restraining orders (and the bases for such orders) in litigating questions such as pretrial detention and sentencing. Such orders (and their bases) must also be considered in deciding whether to charge certain federal firearm offenses (see, for example, 18 U.S.C. section 922(g)(8)).

In somewhat related contexts, I recall advising clients regarding how to respond to a person who had been regularly trespassing on their property, and arranging to serve a Notice Against Trespass upon that person. I do not recall seeking court intervention in that matter. In another representative non-litigation matter, I represented two Burlington tenants in a dispute with their landlord who was failing to abide by the landlord's legal duties. My recollection is this matter did not go to court, as the landlord conducted the appropriate improvements to the apartment after receiving correspondence from me demanding he do so, or risk litigation. Such work required a high degree of familiarity not only with Vermont's substantive law, but also its court's procedures.

As previously noted, I also appeared in three state court jury trials.

At the Supreme Court, I have worked on at least three appeals heard by all five justices.

I also appeared in hearings before the Environmental Board (as it was then known) on behalf of a client seeking to develop a subdivision.

I also appeared before the Public Service Board (now known as the Public Utility Commission) in a variety of different hearings, including rate cases, licensing proceedings, and other administrative investigations. I estimate appearing at a PSB hearing on behalf of clients approximately 20 times.

I also represented at least one client before the Human Rights Commission in Vermont, and before similar bodies in other states.

I also represented several estates in Vermont Probate Court, and at least one of these matters involved litigation over a contested issue.

I also represented at least one divorced parent in family court in connection with a dispute over child support and maintenance obligations.

After I left private practice, I also appeared in Vermont traffic court, as an Assistant United States Attorney, on behalf of a rural postal carrier who had received a ticket while delivering the mail. This case resulted in a highly unusual written decision from the judge, dismissing the ticket. I also appeared at least once as an AUSA in a state criminal court hearing in which testimony was sought from a federal law enforcement agent, thereby implicating issues under United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951). More recently, I was involved in supervising a federal appeal in a case requiring analysis of Vermont Supreme Court decisions interpreting Vermont's worker's compensation statutes.

Furthermore, consistent with the testimony of Chief Justice Amestoy, multiple cases I worked on as an AUSA were closely aligned with the position of the State of Vermont. For example, I defended the program of both the United States and Vermont to control the invasive sea lamprey in Lake Champlain. I have also worked closely with the Attorney General's office and State's Attorney's offices in criminal prosecutions seeking to vindicate state law.

I can recall approximately 25 clients whom I represented exclusively in state courts or administrative agencies, and at least one non-governmental client that was involved in both state and federal court litigation.

Please note that because much of my state court experience occurred when I was in private practice, and because I am certain I do not recall all the cases I worked on from 24-plus years ago (or their details), I believe the numeric estimates provided above understate my

experience. I also request that you please consider that the number of distinct clients is not a measure of an attorney's litigation experience when some of those clients are frequently involved in litigation.

Having practiced in both state and federal court, I disagree with those who believe federal court experience is materially different from practicing in state court. To be sure, there are some matters unique to state court, examples of which include Probate, Divorce, CHINS, and RFAs. But as I explained to the Committee week-before-last, state law frequently governs in federal court, and the rules of civil procedure in both courts are, in most contexts, nearly identical. For example, as a civil AUSA I defended multiple personal injury actions (including medical malpractice cases) that were governed by Vermont law.

Finally, as you know, this past year the Judicial Nominating Board considered the combination of my state and federal court experience and twice found me highly qualified to be an Associate Justice on the Vermont Supreme Court.

Please let me know if you have any additional questions.

Mike Drescher