

Statement in Support of Mike Drescher Nomination to the Vermont Supreme Court

January 23, 2026

Good morning Senators. Thank you for the opportunity to speak in support of Michael Drescher's nomination to the VT Supreme Court. And thank you for allowing me to appear remotely.

I have prepared a statement and am also happy to try to answer questions you may have.

My name is Nikolas Kerest and here is a little bit about my background. I moved to Vermont from Maine in 2010 to join the U.S. Attorney's Office. I was a career Assistant United States Attorney in Vermont from 2010 to 2021. From 2010 to 2019 I held various roles within the U.S. Attorney's Office's civil division, including civil rights coordinator and civil chief. From 2019 to 2021, I moved to the criminal division of the U.S. Attorney's Office and was a federal prosecutor.

In the fall of 2021, President Biden nominated me to be the U.S. Attorney for the District of Vermont. I was confirmed by the U.S. Senate and took office late in 2021. I was U.S. Attorney until January 20, 2025 when the Biden administration ended. Now, I am a partner at the law firm of Stris & Maher.

I am here today to offer my strongest support for Michael Drescher's candidacy to be a justice of the VT Supreme Court. I've known Mike since late 2009 when he interviewed me to be an Assistant U.S. Attorney in the Civil Division of the U.S. Attorney's Office.

In my opinion, Mike is an ideal fit to take the bench because of his intellect, his temperament, and his experience. Here are some details on Mike's qualifications.

Mike has litigated complex civil defensive cases, affirmative civil fraud matters, and prosecuted countless criminal cases. As a result of Mike's experience and his reputation, junior lawyers at the U.S. Attorney's Office regularly sought out Mike's advice on how to handle complicated issues in both civil and criminal cases. Mike methodically assessed each case that crossed his desk, not leaping to conclusions, letting the facts and the law lead the way. Mike is also an excellent explainer of legal concepts and often demonstrated this quality during training sessions in the U.S. Attorney's Office. His demeanor and intelligence would be welcome on the bench.

Mike is also recognized by the defense bar as a fair and zealous advocate, who understands and values the collegiality that makes Vermont practice special. On that note, I specifically refer to the letter of support submitted to the committee by the former Federal Public Defender, Mike Desautels.

Mike recognizes the deep significance of the cases that he handled as an Assistant U.S. Attorney. I know this because Mike talked with me and his colleagues about the life-changing events that happen daily in the courtrooms of Vermont. As a small but significant gesture of this awareness, I have often seen Mike take a moment to offer best wishes to defendants at the conclusion of their cases. These interactions in the courtroom, which last all but a few seconds, speak volumes about the person Mike is and his awareness of the impact of the choices made by prosecutors and the court. If you spend any time in the courtrooms of Vermont, you know that this kind of gesture that Mike made a habit of is unusual and is emblematic of his humanity and the person he is.

Thirteen years after I joined the U.S. Attorney's Office, I had the good fortune to lead that great office and its team of unmatched public servants.

When I needed to appoint a First Assistant -- the number 2 in the office, a confidante and councilor for me and a chief operating officer for the whole office, I asked Mike to take on that role. Fortunately for me and even more fortunately for the office team, Mike said yes. I was honored to have Mike as my deputy and he performed that role with distinction while I was still in the office. As examples of Mike's dedication and excellence, when there were budget impasses and threats of government shutdowns, I recall Mike going door to door to try to assuage peoples' concerns, especially the people new to federal service. I also have strong memories of Mike joining me on visits to the Islamic Society of Vermont in South Burlington where he made connections of his own and helped explain federal civil rights law to the members of the mosque.

After President Biden lost the election, I knew I'd be leaving as is the normal course for presidentially appointed, Senate confirmed U.S. Attorneys when there is a party change in the White House. On my last day in the U.S. Attorney's Office -- last January 17 -- I wished Mike and the office "regular days" in the year to come.

None of us could have imagined how few "regular days" there have been in the past year. Instead of regular days pursuing justice, career public servants at the Department of Justice and in U.S. Attorney's Offices around the country have been under siege.

The U.S. Attorney's Office for the District of Vermont, under Mike's leadership, has been no exception.

Many dedicated public servants at the U.S. Attorney's Office and elsewhere in the Department of Justice have debated leaving behind their dream jobs due to the pressures imposed by this administration. They've heard friends and family and community members say, "It's important for you to stay. We need good people like you to remain and protect our treasured institutions." Mike was one of those people who chose to remain and do his best to protect the best traditions of the Department of Justice and our local U.S. Attorney's Office.

In this past year, Mike's leadership of that office was nothing short of heroic. At every turn, Mike has prioritized the office and the rank and file career public servants over his personal comfort and day to day stability. To put a fine point on it, Mike has demonstrated an extreme level of sacrifice over the past year. Mike has done whatever it takes to keep the U.S. Attorney's Office functioning and serving its incredibly important role of protecting public safety in Vermont. On a day to day level, this meant doing things that under normal circumstances would have never happened and none of us who have worked at DOJ could have ever imagined.

And this includes representation of the United States in response to habeas petitions where the circumstances of arrest are beyond the pale, contrary to anything we'd seen before, and in violation of basic First Amendment principles. From that lens, some may ask "why would Mike Drescher stand up in court and make arguments that to the outside observer seem supportive of those horrible arrests?"

Based on my experience in the U.S. Attorney's Office as civil chief and then U.S. Attorney and my familiarity with Mike's leadership, I can offer a couple of reasons for your consideration.

First, there was no good answer for Mike or the U.S. Attorney's Office when those cases came in the door. There was no discretion not to deal with them. These are not criminal cases where there is prosecutorial discretion. There is no prosecution in these cases; they are civil cases. And, second, in this administration, in civil cases like this, there is no discretion to say "no thank you, we'd prefer not to handle

this case" without dire consequences. Once a civil case is assigned to the office there is a duty to handle that case in an ethical manner making reasonable legal arguments.

Mike had no good options to choose from. In fact, I believe there were four bad options for Mike when these habeas petitions were filed in Vermont.

Before I describe those four options, I'd like to focus a little more on the role that Mike filled after I left the office and until he recently resigned. Mike took over leadership of the U.S. Attorney's Office by operation of statute. Not because he was chosen by the current administration or as a so-called "Trump U.S. Attorney." Mike Drescher never was and never will be a "Trump U.S. Attorney." He took over leadership of the office because he was the First Assistant when I resigned about one year ago. Full stop. Unlike me -- a President Biden nominee or other U.S. Attorneys around the country who actually have been nominated by President Trump, it is incorrect to put the label of any president or political party on Mike Drescher.

Turning back to Mike's four bad options when the Ozturk and Mahdawi habeas petitions were filed in the District of Vermont:

One was to assign the cases to someone else in the office. That would have been the normal course. It's highly unusual for the leader of the office to stand up in court and take full responsibility for a civil case like this. But this isn't Mike's leadership style or how he has approached the past year. He has repeatedly taken the least desirable assignments for himself. And this was no exception.

Two was to contact the DOJ leadership in DC at the highest levels and say that the office would prefer not to handle the cases. This would have led to two things happening. One is that Mike almost certainly would have been fired -- fall in line or get fired is an explicit message from the current DOJ leadership. And we all know that the current DOJ administration has followed through on that threat numerous times. Two -- the cases weren't going away so Mike's firing would have led to someone else in the office having to face the same impossible quandary or it would have led to DOJ leadership sending a Trump loyalist to Vermont to handle the cases.

A third option would have been to resign in protest of the circumstances of the arrests and the irregular nature of these cases. If Mike had made this choice, it would have resulted in the same outcomes as telling DOJ leadership "no thanks" to the cases. What would have followed would have been almost certainly -- an office in turmoil without its leader and likely a fervent supporter of the administration's tactics arriving from DC to argue the cases.

The fourth option was what Mike did -- take the heat himself to prevent others in the office from having to do so or to prevent a politically-motivated advocate being sent from DC to handle the cases.

I know Mike wishes the circumstances leading to those habeas cases never happened and there is no way that Mike personally supports revocation of visas based on protected First Amendment speech. Mike was faced with an impossible situation and made what he considered the best choice under the circumstances -- prioritizing preservation of his colleagues at the U.S. Attorney's Office while also avoiding further politicization of the cases if he had removed himself.

Every day that passes I feel lucky Mike said yes when I asked him to be my main advisor and confidant. And I am even more thankful for the sake of Vermont and the U.S. Attorney's Office that Mike led the office over the incredibly difficult past year. None of this is to minimize the suffering imposed by the current administration on Ms. Ozturk and Mr. Mahdawi and many others. But under the circumstances,

Mike made a reasonable and ethical choice out of a list of bad choices and subjugated himself to protect his colleagues and his office.

Mike Drescher is the kind of public servant that we should all wish for and honor. And Mike is the kind of public servant that those of us outside federal government since last January 20 have been asking to stay.

Thank you for the opportunity to speak on Mike's behalf. Long committed to the well being of Vermont, I anticipate that Mike Drescher, if given the chance, will serve on the Vermont Supreme Court with tremendous dedication, distinction, and a deep commitment to equal justice under the law.