

# JENNIFER MASCOTT



Jennifer Mascott, nominee to the U.S. Court of Appeals for the Third Circuit, has built her career advancing a far-right legal agenda that seeks to dismantle the federal government's ability to regulate in the public interest. Through her scholarship, public testimony, and litigation, Mascott has consistently argued for narrowing agency authority and undermining protections that safeguard consumers, workers, and communities.

Throughout her career, Mascott has aligned herself with efforts to roll back reproductive freedoms, block student debt relief, and overturn longstanding precedent that empowers federal agencies to implement laws passed by Congress. Her record reflects a vision of the law that favors executive power and prioritizes ideological goals and corporate interests over the health, safety, and rights of America's families.

## EXECUTIVE POWER

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Mascott has promoted a king-like vision of presidential authority, including immunity from criminal accountability. In a 2024 [Senate Judiciary Committee hearing on \*Trump v. United States\*](#), she asserted that the Court's decision was "essential [for] the president to be able to do his job" and warned against "subject[ing] him to criminal prosecution for doing his job." She has also endorsed the presidential immunity doctrine more generally and appears to have aligned herself with the "unitary executive" theory, a fringe belief that further centralizes power in the presidency. More specifically, the "unitary executive theory" postulates that the president has sole power over the executive branch and the millions of people who work within the executive branch, all at the expense of democratic checks and balances.

Mascott's record reveals an expansive, anti-democratic view of executive power that risks furthering a harmful and false legal theory that places presidents above the law and weakens vital Congressional oversight and other checks and balances.

## ENVIRONMENTAL JUSTICE

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Jennifer Mascott has consistently supported dismantling federal environmental protections. Commenting on the Supreme Court's decision in *West Virginia v. EPA*, which curtailed the EPA's ability to regulate carbon emissions, she claimed that the ["limitation is long overdue."](#)

Mascott's record shows a clear hostility toward the federal government's role in protecting public health and the environment, and she continues to side with corporate interests over environmental justice and workers.

## ADMINISTRATIVE AGENCIES & THE REGULATORY STATE

Mascott has been one of the most vocal opponents of the modern administrative state. In testimony before the House Judiciary Subcommittee on the Administrative State (March 2024), she endorsed overturning the Chevron Doctrine, attacking the Consumer Financial Protection Bureau’s “blanket authority to conduct hearings and adjudication proceedings” as far too expansive. She further claimed that the Dodd-Frank Act “explosively expanded agency power to bring enforcement actions” and that it was “unclear why that [was] necessary.” She made similar claims in litigation, arguing that Congress gave the CFPB unconstitutional independence.

At a Federalist Society panel, Mascott criticized Humphrey’s Executor — the precedent preserving the independence of agencies like the Federal Trade Commission — arguing that “some of us . . . have reason to be concerned” about restrictions on the president’s power to direct commissioners.

She has also called for shrinking the judiciary’s role in overseeing social law. In testimony, she warned that the courts should not be resolving “the most contentious issues of our time, on a broad scale, such as privacy rights, family, and education policy . . .” In shrinking the judiciary’s role, Mascott would prefer that these issues be primarily resolved at the state and local level. As exhibited by the eradication of reproductive access and rights in much of the country, this view would only further lessen protections for marginalized groups unable to influence the political process in their states.

Mascott’s advocacy consistently sought to weaken regulations intended to protect the public. She filed multiple briefs supporting litigants seeking not only to undermine protections, but to dismantle them altogether and rewrite the rules. For example, on behalf of the Alliance for Hippocratic Medicine — the group that sought to restrict nationwide access to mifepristone, a safe and effective abortion medication — she filed a brief against the Food and Drug Administration, challenging the requirements for bringing actions against the agency. In *Biden v. Nebraska*, she filed a brief on behalf of Republican lawmakers, arguing that separation of powers concerns barred the President from forgiving student loans (although her record illustrates that she clearly has no regard for the separation of power, as long as such power is held by the president). And in *Loper Bright*, the case that overturned Chevron, she filed a brief on behalf of Senator Ted Cruz and Congressman Mike Johnson, pressing for limits on agency authority and, in turn, undermining essential regulations that protect the health, lives, and safety of the public.

Mascott’s hostility toward independent agencies and her embrace of dismantling the 40-year precedent set in *Chevron* illustrate her political desire to strip away consumer, environmental, and worker protections that depend on effective agency enforcement.

## REPRODUCTIVE JUSTICE

Mascott has consistently championed the elimination of reproductive freedoms and the rollback of substantive due process protections. Before *Dobbs v. Jackson Women's Health Organization* was even decided, she wrote that “the most constitutionally correct outcome in *Dobbs* would be for the Court to conclude that the Fourteenth Amendment Due Process Clause — a guarantee of process protections — contains no substantive right.” After the ruling, she praised the majority, writing: “On Friday a five-justice majority definitively overruled *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992), affirming states’ authority to regulate abortion. In so doing, the court reclaimed its legitimate constitutional role and signaled a willingness to re-examine precedents that strayed across the line.”

She doubled down, declaring that “*Dobbs* belatedly corrects that error” of 1973, and lauded Justice Alito’s opinion as a “master stroke” that “clears away the underbrush of the Supreme Court’s jumbled abortion-as-health policy.”

Mascott has also written about Justice Clarence Thomas’s legacy, calling him a “champion,” in part, for how he has encouraged the Court to “stop discovering substantive rights in the due process clause.” Taken together, these statements foreshadow an openness to attacking other fundamental rights including contraception access, marriage equality, and protections for LGBTQ+ people.

Mascott’s views reflect an uncompromising originalism that would not stop at abortion. Her record signals a willingness to dismantle an entire body of modern civil rights jurisprudence. In other words, Mascott’s views directly attack a plethora of fundamental freedoms that are overwhelmingly supported by the American public.

## JUDICIAL PHILOSOPHY

Mascott has been explicit about her judicial methodology, stating that “originalism, as applied through the methodology of original public meaning at the time of ratification,” is, in her view, the only legitimate method of constitutional interpretation. She praised Justice Thomas for his eagerness to expand review of Second Amendment cases, arguing that the right to bear arms is “often undervalued by the judiciary.”

Mascott’s career reflects a deep alignment with far-right legal and political movements, embracing originalism, unchecked presidential power, weakened oversight of agencies, and the erosion of civil rights protections. If confirmed, her judicial philosophy would cement the agenda of those seeking to strip away reproductive freedom, environmental protections, and accountability for the powerful.