



# Jennifer Mascott

*Nominee to the U.S. Court of Appeals for the Third Circuit*

**COURT**  
Circuit Court

**DATE NOMINATED**  
July 16, 2025

AFJ OPPOSES

## Introduction

Nominated to the U.S. Court of Appeals for the Third Circuit on July 16, 2025, Jennifer Mascott built her career promoting a far-right legal agenda that seeks to dismantle the federal government's ability to implement laws, effectively regulate, and promote the general welfare of America's communities. Throughout her academic scholarship, congressional testimony, and legal briefs, Mascott consistently argued for stripping agency regulatory authority and misapplied separation-of-powers arguments to advance an authoritarian executive.

She spent her career working to realize a modern government dominated by a king-like vision of executive power and immunity. This perspective elevates a government that is unresponsive to the needs of everyday people, threatens the well-being of our communities, undermines the stability of our institutions and the safety they provide, and disrupts the integrity of our administrative agencies.

Remarkably, Mascott has no meaningful connection to the Third Circuit — no prior professional or personal ties — a striking deviation from historical norms. Traditionally, nominees have a substantial connection to the region they would serve — through practice, teaching, or community engagement — to ensure familiarity with local legal culture and the communities impacted by the court's decisions. In nominating Mascott to this influential appellate seat, Trump bypassed an established norm that underscores a willingness to prioritize loyalty and ideology over judicial experience and meaningful ties to the integration into the community a court serves.

## Biography

Jennifer Mascott's legal career has been tightly bound to the far-right conservative legal movement from its earliest stages. She earned her B.S. in Mathematics and Government & Politics from the University of Maryland in 1997. After graduation, Mascott worked as a Legislative Assistant to U.S. Congressman John Hostettler (R-IN-8) from 1997 to 1999.

Remaining in Congress, Mascott went on to serve as Deputy Press Secretary for the U.S. Senate Republican Conference from 1999 to 2001 and Press Secretary for both Representative Eric Cantor (R-VA-7) from 2001 to 2002 and Representative Anne Northup (R-KY-3) from March 2002 to July 2003. In 2003, Mascott attended law school at George Washington University Law School, and she received her J.D. in 2006. While in law school, Mascott interned for Judge Richard Leon of the U.S. District Court for D.C. During law school, she also worked as a law school research assistant from 2004 to 2005 and was a summer associate at Covington & Burling in 2005.

After graduating in 2006, Mascott clerked for Judge Brett Kavanaugh on the U.S. Court of Appeals for the D.C. Circuit and later for Justice Clarence Thomas on the Supreme Court. Following these clerkships, Mascott worked in the Department of Justice, in a variety of roles including Deputy Assistant Attorney General and Associate Deputy Attorney, where she advanced positions limiting agency authority and expanding executive power. At the same time, she joined George Mason University's Antonin Scalia Law School in 2016 as Assistant Professor of Law and co-executive director of the Center for the Study of the Administrative State. At Catholic Law she founded the Separation of Powers Institute and Student Litigation Clinic and served as a member of and regular contributor to the Federalist Society. She also served as a Supreme Court contributor for NBC News. She volunteered on the Trump-Vance Transition and held leadership roles in the American Bar Association Administrative Law Section and the Administrative Conference of the United States.

## Legal and Other Views

### **DANGEROUSLY ADVOCATES FOR SWEEPING AND UNFETTERED EXECUTIVE POWER**

Mascott has extensively promoted a sweeping view of presidential authority, including immunity from criminal accountability for official acts. During a 2024 [Senate Judiciary Committee hearing on \*Trump v. United States\*](#), she argued that holding the president accountable, via prosecution, for performing illegal duties in an official capacity would threaten the office. Her writings and public statements espouse the “unitary executive” theory, a fringe argument that centralizes presidential power at the expense of democratic checks and balances. This sweeping, anti-democratic view envisions the president as the sole decisionmaker within the executive branch, granting whoever holds the office with unchecked power to control and manipulate every agency, official, and institution under its umbrella. It is a theory pushed by far-right activists to elevate the president above the law and shield authoritarian leaders in pursuit of a destructive agenda.

Mascott's idea of executive authority without checks and balances would give Trump the legal foundation to continue dismantling our constitutional democracy, aided by a compliant Congress and a substantially captured federal judiciary.

### **OPPOSES AGENCY DEFERENCE AND THE REGULATORY STATE**

Mascott devoted her career to scrutinizing agency authority and the administrative state, consistently opposing deference to agency expertise despite explicit statutory authority granted by Congress. In a 2024 testimony before the [House Judiciary Subcommittee](#) on the Administrative State, she [argued](#) for overturning the *Chevron* Doctrine,

criticized the Consumer Financial Protection Bureau’s “blanket authority to conduct hearings and adjudication proceedings,” and labeled the Dodd-Frank Wall Street Reform and Consumer Protection Act as “explosively” expanding agency enforcement power. In litigation and commentary, she challenged the independence of agencies like the Federal Trade Commission, criticized longstanding precedent preserving agency autonomy, and urged limits on regulatory enforcement across sectors including health care, finance, and environmental protection.

Her positions highlight a pattern of selective enforcement: she embraces aggressive expansion of executive authority when held by a Republican president but aggressively constrains the regulatory power of federal agencies and Congress when those mechanisms are used to expand abortion access or economic mobility under a Democratic administration. These contradictions highlight a pattern of politicizing legal principles that threaten the judiciary’s impartiality, a departure from historical norms where judges of all ideological backgrounds consistently applied separation-of-powers doctrines evenhandedly, regardless of the administration in office. In the current political moment, Mascott’s approach risks providing cover for Trump-era abuses of power, including attempts to circumvent Congress’s authority over the purse and the statutory authority it confers to federal agencies.

Mascott’s skepticism of so-called “expansive” agency authority is consistently directed at agencies designed to protect workers, consumers, and communities — rather than the corporate interests whose abuses necessitated their creation in the first place. This reveals how she is likely to approach agency challenges on the bench: with immediate hostility toward any effort to hold powerful interests accountable. Such a view paves the way for approving Trump’s attempts to dismantle and weaken these agencies, with little regard for Congressional intent.

### **SUPPORTS EFFORTS TO LIMIT REPRODUCTIVE JUSTICE**

Mascott repeatedly aligned herself with efforts to eliminate reproductive freedoms and erode substantive due process protections. Prior to the Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*, she claimed that the Fourteenth Amendment’s Due Process Clause “contains no substantive right” to abortion. Following the Court’s decision to overturn approximately 50 years of precedent, she praised the ruling as a corrective measure and lauded Justice Alito’s opinion as a “master stroke” that “clears away the underbrush” of *Roe* and *Casey*, framing abortion rights as judicial overreach.

Her writings on Justice Thomas and his legacy — particularly regarding substantive rights — make clear that she is not merely indifferent to preserving established precedent, but actively eager to use her power to overturn decisions that form the foundation of equitable access to contraception, marriage equality, and LGBTQ+ rights.

### **SUPPORTS CASELAW THAT UNDERMINES ENVIRONMENTAL JUSTICE**

Mascott praised the Supreme Court’s decision in *West Virginia v. EPA*, calling the limits placed on the Environmental Protection Agency’s regulatory power “long overdue.” This position is consistent with her broader hostility toward agency authority, which she most often directs at agencies that protect consumers and workers from corporate financial abuse and fraud. That said, her opposition consistently extends to the EPA as well, reflecting a contempt for the agencies’ ability to mitigate climate change and protect the health and safety of America’s families.

Such views threaten not only the financial integrity of our economy, but also our environment and access to clean air and water. If confirmed to the regional court of appeals, Mascott would likely have the final say on numerous challenges to EPA regulations within her circuit — giving weight to far-right legal attacks designed not to uphold the law, but to strip the EPA of its power and allow corporations to exploit our environment with little to no accountability.

### **ENDORSED ORIGINALISM, AN OUTDATED JUDICIAL PHILOSOPHY**

Mascott has explicitly endorsed originalism, insisting that the original meaning at the time of our constitution's ratification is the sole legitimate form of constitutional interpretation, even though the Constitution was never intended to be stagnant and a single original meaning rarely persisted. Her career reflects an alignment with far-right legal and political movements, combining originalist methodology with expansive presidential power, selective restriction of congressional and agency authority, and opposition to civil rights and consumer protections. Her writings emphasize the undervaluation of Second Amendment rights, the narrowing of due process protections, and a willingness to reevaluate longstanding precedent in ways that systematically reduce rights and protections for ordinary Americans.

### **CONCLUSION**

Mascott's nomination to the Third Circuit is devastating to the appeals court's integrity and capability to apply the law without favor. As previously stated, she has no meaningful ties to the circuit she would serve, a departure from norms designed to make sure judges understand the communities and legal cultures they influence. Her career demonstrates a selective approach to separation-of-powers principles that favors presidential authority under Republican administrations while undermining congressional and agency power when it serves public protections under Democratic leadership. She has repeatedly opposed reproductive freedoms, environmental safeguards, and civil rights protections, advocating instead for concentrated executive power, additional corporate power, and minimal regulatory oversight. Confirming Jennifer Mascott would further a politically selective vision of executive authority and further destabilize the balance of powers fundamental to American democracy. For these reasons, we strongly urge opposition to her nomination to the U.S. Court of Appeals for the Third Circuit.