

Trump Nominated William Mercer, An Attorney With A History Of Politicizing The Department Of Justice And Pushing For Far-Right Legislation

SUMMARY: Trump nominated Montana state representative William “Bill” Mercer to the United States District Court of Montana. Mercer is a partner at Holland & Hart where his civil litigation and regulatory work is focused on environmental issues.

In the Montana legislature, Mercer has voted for anti-abortion, anti-trans legislation. In 2021, he voted for three bills imposing restrictions on abortion access, including banning abortion at 20 weeks, requiring a 24-hour waiting period and mandatory ultrasounds, and instituting new credentialing for providers. In 2025, the Montana Supreme Court [struck down](#) the laws. Mercer [sponsored a bill](#) which would remove the right of voters to elect Supreme Court justices, which would likely give a Republican governor more control over the court. In 2023, Mercer voted for a bill defining “sex” as binary male or female, which was [struck down](#) by a Montana state district court.

As a private attorney, he has represented then-Rep. Greg Gianforte amidst his reporter assault controversy and oil and mining groups in cases seeking free reign over anti-environmental projects. Mercer was the original [local counsel](#) for a group of plaintiffs who sued Montana in order to receive state tuition assistance for religious private schools. The case was a landmark expansion of publicly funded religious schools, even [cited](#) in the recent Oklahoma religious charter case.

As a U.S. attorney, Mercer was chastised by Montana’s chief federal judge for federalizing criminal cases arbitrarily and because it was [politically popular](#). The judge asked Mercer “Do you ever concern yourself with justice?” during a federal court session. The judge claimed that Mercer was neglecting his duties, that his office was a “mess” and that he had “no credibility.”

Trump Nominated Montana State Rep. And Attorney William “Bill” Mercer For A Seat On The District Court Of Montana

July 2025: Trump Nominated William Mercer To The District Of Montana

July 2025: Trump Nominated Bill Mercer To The U.S. District Court. “Former Montana U.S. Attorney Bill Mercer has been nominated to a judgeship on the U.S. District Court. President Donald Trump made the nomination Thursday, according to Montana U.S. Sens. Steve Daines and Tim Sheehy. Court nominations have to be approved by the U.S. Senate.” [Montana Free Press, [7/11/25](#)]

Mercer Is A Republican State Representative And An Attorney In Montana

Mercer Is A Partner At Holland & Hart Where He Focused On Civil Litigation And Regulatory Work Focused On Environmental Issues. “William Mercer Partner [...] Bill relies on twenty-one years of government service to represent clients in litigation involving the federal government or the State of Montana, criminal and civil matters investigated by the federal government or the State of Montana, and federal and Montana regulatory matters. His civil litigation and regulatory work is focused on environmental issues. Bill’s work on behalf of clients under government investigation is focused on allegations of violations of health care and environmental laws.” [Holland & Hart, accessed [7/18/25](#)]

Mercer Worked As A Senior Justice Department Official In The Bush Administration, As United States Attorney In Montana, And As An Assistant U.S. Attorney. “Bill previously served as a senior Justice Department official in the Bush Administration in two positions: Acting Associate Attorney General and Principal Associate Deputy Attorney General. As Associate Attorney General, he served as the third-ranking official in DOJ and had oversight responsibility for five litigating divisions (Antitrust, Civil, Civil Rights, Environment and Natural Resources and Tax) with criminal and civil cases. Bill served as United States Attorney in Montana from 2001 to 2009 and as an Assistant US Attorney from 1994 to 2001. In these roles, he was responsible for natural resources litigation, prosecution of criminal cases, and appellate practice on behalf of the United States.” [Holland & Hart, accessed [7/18/25](#)]

As A State Rep., Mercer Has Voted For Anti-Abortion, Anti-Trans Legislation

Mercer Voted For Three Anti-Abortion Bills, Which Would Ban Abortion At 20 Weeks, Institute A 24-Hour Mandatory Waiting Period And Ultrasounds, And Place Other Barriers To Care, Had The Montana Supreme Court Not Struck Them Down

2021: Montana Passed A Bill Banning Abortion At 20 Weeks. “In a ruling deeply critical of restrictions placed on abortion by the 2021 Montana Legislature, Yellowstone County District Court Judge Kurt Krueger struck down three laws that he said placed unreasonable and unconstitutional limits on abortions in Montana [...] House Bill 136 bans abortions at 20 weeks, which is before the point of viability, ‘based on the legislative conclusion that the fetus is able to experience pain at that point during the gestation.’” [Idaho Capital Sun, [3/1/24](#)]

- **Mercer Voted For The Bill.** [Montana House of Representatives, HB 136, [1/26/21](#)]

2021: Montana Passed A Bill Imposing Restrictions On Abortion Access, Including A 24-Hour Waiting Period And New Credentialing For Abortion Providers. “In a ruling deeply critical of restrictions placed on abortion by the 2021 Montana Legislature, Yellowstone County District Court Judge Kurt Krueger struck down three laws that he said placed unreasonable and unconstitutional limits on abortions in Montana [...] House Bill 171 implemented a host of restrictions, including banning abortions via telehealth, imposing a 24-hour waiting period, requiring a patient to use a state form that had various notifications, and required an entirely new set of credentialing for medical providers who perform abortions.” [Idaho Capital Sun, [3/1/24](#)]

- **Mercer Voted For The Bill.** [Montana House of Representatives, HB 171, [1/26/21](#)]

2021: Montana Passed A Bill Requiring Abortion Providers To Provide Two Forms Of Ultrasound And Fetal Heart Tones. “In a ruling deeply critical of restrictions placed on abortion by the 2021 Montana Legislature, Yellowstone County District Court Judge Kurt Krueger struck down three laws that he said placed unreasonable and unconstitutional limits on abortions in Montana [...] House Bill 140 required providers to provide two forms of ultrasound and fetal heart tones, and imposed civil penalties for providers who don’t offer it.” [Idaho Capital Sun, [3/1/24](#)]

- **Mercer Voted For The Bill.** [Montana House of Representatives, HB 140, [1/26/21](#)]

2024: Montana Voters Approved A Ballot Measure Enshrining Abortion Rights In The State Constitution. “Montana voters approved a ballot measure enshrining abortion in the state constitution, NBC News projects, delivering a victory to advocates for reproductive rights in a Western red state. The amendment will not change current law on abortion in Montana: Abortion is legal in the state until fetal viability, around the

23rd or 24th week of pregnancy, backed up by a 1999 ruling by the state Supreme Court.” [NBC News, [11/6/24](#)]

2025: The Montana Supreme Court Upheld A Lower Court Ruling That Struck Down The Laws.

“Montana’s Supreme Court upheld a lower court ruling that struck down as unconstitutional several laws restricting abortion access, including a ban beyond 20 weeks of gestation. The measures approved by Republican lawmakers in 2021 had been blocked since a judge issued a preliminary injunction against them that year. While the case was pending, voters passed an initiative that enshrined the right to abortions in the Montana Constitution.” [Associated Press, [6/10/25](#)]

Mercer Supported Anti-Trans Bills, Including A Bill Defining Sex As Binary Male Or Female

2025: Mercer Sponsored A Bill Which Would Prevent Parents From Being Punished For Disregarding A Child’s Gender Identity

Mercer Sponsored HB 690 Which Would Allow Lawmakers To See Social Worker Records, And Clarified The Bill Was Intended To Prevent Parents From Being Punished For Disregarding A Child’s Gender Identity. “But as the case has continued to wind its way through the courts, Mercer, a member of the Montana House of Representatives, has introduced House Bill 690, which would change state law so that parents would not be entitled to those documents, but lawmakers could still see them. [...] However, Mercer said the purpose of HB 690 is to clarify in law that parents in Montana cannot be punished for disregarding or disagreeing with a child’s gender identity.” [Daily Montana, [3/18/25](#)]

2023: Mercer Voted For A Bill Defining “Sex” As Binary Male Or Female

2023: Montana Passed A Law Defining “Sex” As Binary Male Or Female. “Gov. Greg Gianforte’s office announced Saturday that the Republican governor has signed into law Senate Bill 458, legislation that inserts binary, reproduction-based definitions of ‘male,’ ‘female’ and ‘sex’ into dozens of parts of state code.” [Montana Free Press, [5/22/23](#)]

- **Mercer Voted For The Bill.** [Montana House of Representatives, SB 458, [4/21/23](#)]

June 2024: A Montana State District Court Declared The Bill Unconstitutional. “On June 25, a Montana state district court declared Senate Bill 458 unconstitutional because the title violates the ‘clearly expressed’ requirements of Article V of the 1972 Montana Constitution.” [Holland & Hart, [8/5/24](#)]

February 2025: A Montana State Court Again Ruled That The Bill Violated The Right To Privacy And Equal Protection Under The Montana Constitution. “A state law that defined sex as binary was ruled unconstitutional on Tuesday, Feb. 18. A Montana District Court judge ruled that Senate Bill 458 violates the right to privacy and equal protection under the law guaranteed in the Montana Constitution.” [8 KPAX, [2/20/25](#)]

Mercer Sponsored A Bill To Take Away Voters’ Right To Elect State Supreme Court Justices And Bestow It On The Executive Branch

Mercer Sponsored A Bill To Take Away Voters’ Right To Elect State Supreme Court Justices And Bestow It On The Executive Branch, Despite 91% Of Montanans Opposing Such An Amendment. ‘Constitutional amendment to change process to select supreme court justices’, from Rep. Bill Mercer (R-Billings), would take away Montana voters’ right to elect their state supreme court justices, and instead,

bestow that power to the Executive branch. Mercer has promised this amendment will make it to a hearing. Despite the fact that a stunning 91% of Montanans would oppose such an amendment, according to recent polling by research firm Middle Fork Strategies.” [Montana Democrats Press Release, [3/20/23](#)]

- **April 4, 2023: The Bill Passed The Montana State House, 59-39.** [Montana Legislative Services, accessed [7/23/25](#)]
- **May 5, 2023: The Bill Died In Process In The Montana Senate.** [Montana Legislative Services, accessed [7/23/25](#)]

Mercer Sponsored A Bill Increasing Local Law Enforcement’s Cooperation With ICE

2021: Mercer Sponsored A Bill Which Would Increase Local Law Enforcement’s Cooperation With Federal Immigration Investigations. “A policy to increase local law enforcement's role in federal immigration investigations in Montana is nearing Gov. Greg Gianforte’s desk. The state's Republican-led Legislature has passed the bill in both chambers and now it returns to the House after being amended in the Senate. [...] The lawsuit that followed reached the Montana Supreme Court, which ruled in Ramon’s favor, making it clear that under Montana law, officers cannot arrest or keep a person in custody just because they are suspected of being in the country illegally. Bill Mercer is trying to change that. ‘I believe that there's a gap. And that's, that's what I'm trying to fill,’ he says.” [Montana Public Radio, [3/24/21](#)]

- **Governor Greg Gianforte Signed The Bill Into Law.** “Montana Republican Gov. Greg Gianforte signed a bill Wednesday banning sanctuary cities in the state, despite the fact that Montana does not currently have any sanctuary cities.” [Associated Press, [3/31/21](#)]

Mercer Sponsored A Bill To Raise The Age Maximum Of A Medicaid Work Requirement

2025: Mercer Sponsored A Bill To Increase The Maximum Age For Work Requirements Under Medicaid Expansion From 55 To 62. “The bill would increase the maximum age for work requirements under Medicaid expansion from 55 to 62. Republican Sponsor Rep. Bill Mercer of Billings says it’s reasonable that the requirements are in line with the minimum age to receive Social Security benefits.” [Montana Public Radio, [4/1/25](#)]

As An Attorney, Mercer Represented Rep. Greg Gianforte, Families Suing To Receive State Funds For Religious Schools, And Anti-Environmental Companies

Mercer Represented Rep. Greg Gianforte As He Faced Controversy For Assaulting A Reporter

June 2017: Rep. Greg Gianforte Was Sentenced To Community Service And Anger Management Following His Assault Of A Reporter. “Greg Gianforte, a Montana Republican, was sentenced on Monday to 40 hours of community service and 20 hours of anger management classes for assaulting a reporter the night before he won a seat in the House of Representatives last month.” [New York Times, [6/13/17](#)]

- **Mercer Represented Rep. Greg Gianforte Amidst His Controversy Following His Attack On A Reporter.** “U.S. Rep. Greg Gianforte has intentionally misled voters and the media about his attack on a reporter last year as the Montana Republican campaigns for reelection, the reporter's attorney said in a letter Thursday. Ben Jacobs' attorney, Geoffrey Genth, sent a cease-and-desist letter threatening to cancel Jacob's agreement not to sue Gianforte if the congressman doesn't stop. Genth told William Mercer, Gianforte's attorney, to preserve all documents about the attack in case they are needed as evidence.” [Associated Press, [10/25/18](#)]

Mercer Represented Families Suing To Receive Aid From A State Tuition Assistance Program For Private Schools In A Landmark Case Paving The Way For An Expansion Of Publicly-Funded Religious Schools

Petitioners Sued Montana Over A Rule Prohibiting Recipients Of A State Tuition Assistance Fund From Using Funds At Religious Schools. “Petitioners Kendra Espinoza and others are low-income mothers who applied for scholarships to keep their children enrolled in Stillwater Christian School, in Kalispell, Montana. The Montana legislature enacted a tax-credit scholarship program in 2015 to provide a modest tax credit to individuals and businesses who donate to private, nonprofit scholarship organizations. Shortly after the program was enacted, the Montana Department of Revenue promulgated an administrative rule (‘Rule 1’) prohibiting scholarship recipients from using their scholarships at religious schools, citing a provision of the state constitution that prohibits ‘direct or indirect’ public funding of religiously affiliated educational programs.” [Oyez, argued [1/22/20](#)]

Mercer Represented The Plaintiffs.

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[Montana Eleventh Judicial District Court, *Espinoza v. Montana Department of Revenue*, filed [12/17/15](#)]

Mercer Said That Fears Of Extensive Public Aid For Private Schools Was “Overblown.” “State Rep. Bill Mercer, R-Billings, who helped represent the parents in state court, said fears that a decision for the parents would lead to extensive public aid for private schools is overblown. ‘Could the tax credit be increased? A future Legislature could do that; that is true,’ he told MTN News. ‘But we all know that in the state of Montana, institutions delivering K-through-12 education are central, important.’” [Steve Daines Press Release, [1/21/20](#)]

2020: In *Espinoza v. Montana Department Of Revenue*, The Supreme Court Ruled That The Montana Constitution’s “No-Aid” Provision To A State Program Providing Tuition Assistance To Parents Who Send Their Children To Private Schools Discriminated Against Religious Families. “The application of the Montana Constitution’s ‘no-aid’ provision to a state program providing tuition assistance to parents who send their children to private schools discriminated against religious schools and the families whose children attend

or hope to attend them in violation of the Free Exercise Clause. Chief Justice John Roberts authored the opinion on behalf of the 5-4 majority.” [Oyez, argued [1/22/20](#)]

May 2025: The Supreme Court Deadlocked 4-4 In A Case Concerning The Creation Of A Religious Charter School In Oklahoma. “The Supreme Court deadlocked Thursday over the constitutionality of what would have been nation’s first public religious charter school, blocking the creation of a Catholic institution that would have reshaped American education and blurred the line between church and state. With only eight justices voting, the Supreme Court’s 4-4 tie leaves in place an Oklahoma Supreme Court ruling that St. Isidore of Seville Catholic Virtual School would violate state law and the U.S. Constitution.” [Washington Post, [5/22/25](#)]

- **A Dissenting Oklahoma Supreme Court Justice Cited The Decision In *Espinoza* When Arguing For The Establishment Of A Religious Charter School.** “Justice Kuehn dissented. She explained that ‘St. Isidore would not become a ‘state actor’ merely by contracting with the State to provide a choice in educational opportunities.’ Id. at *11 (Kuehn, J. dissenting). Thus, she reasoned, ‘[e]xcluding private entities from contracting for functions, based solely on religious affiliation, would violate the Free Exercise Clause.’ Id. Justice Kuehn concluded that ‘[b]y reaching the opposite conclusion, the Majority’s decision is destined for the same fate as the Montana Supreme Court’s opinion in *Espinoza*.’” [Supreme Court, Oklahoma Statewide Charter School Board v. Drummond, Application, filed [9/9/24](#)]

Mercer Represented Rosebud Mining In Their Effort To Skirt The Sierra Club’s Challenge To Their Strip Mine Expansion

The Ninth Circuit Rejected An Appeal From Rosebud Mining Seeking To Upend A Ruling Finding That Environmental Groups Had Standing To Oppose The Company’s Strip Mine Expansion. “A Ninth Circuit panel threw out an appeal by Rosebud Mining seeking to upend a Montana federal court ruling finding the Montana Environmental Information Center and the Sierra Club have standing to oppose the company’s strip mine expansion, saying it lacks appellate jurisdiction. The panel’s Friday decision came shortly after the judges questioned whether it was proper for the Ninth Circuit to determine Westmoreland Rosebud Mining Co. LLC’s standing challenge to the environmentalists, with one judge noting the decision under review was non-final, and the U.S. Department of the Interior acknowledging that the appellate court lacks jurisdiction.” [Law360, [11/27/23](#)]

- **The Mine Was Represented By William Mercer.** “The mine and the union are represented by Hadassah M. Reimer, Tina Van Bockern, William Mercer and Bryson Smith of Holland & Hart LLP.” [Law360, [11/27/23](#)]

Mercer Represented Exxon Mobile In A Clean Water Act Violation Case In Montana

The EPA Filed A Complaint Against Exxon Regarding A Clean Water Act Violation In Montana. “On June 4, 2019, the Court entered a Consent Decree in this matter (Document #5) resolving claims brought pursuant to Sections 301(a) and 311(b)(3) of the Clean Water Act (‘CWA’ or ‘the Act’), 33 U.S.C. §§ 1311(a) and 1321(b)(3), as a result of the July 1, 2011 discharge of more than 1,500 barrels of crude oil from its Silvertip Pipeline into and upon the Yellowstone River and adjoining shorelines in a quantity as may be harmful (the ‘Discharge’) near Laurel, Montana.” [District of Montana, USA v. Exxon Mobile, Consent Degree, filed [12/23/20](#)]

- **Mercer Represented Exxon Mobile.**

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[District of Montana, USA v. Exxon Mobile, Notice of Appearance, filed [12/10/20](#)]

The Lawsuit Resolved Through A Consent Decree. “On June 4, 2019, the Court entered a Consent Decree in this matter (Document #5) resolving claims brought pursuant to Sections 301(a) and 311(b)(3) of the Clean Water Act (‘CWA’ or ‘the Act’), 33 U.S.C. §§ 1311(a) and 1321(b)(3), as a result of the July 1, 2011 discharge of more than 1,500 barrels of crude oil from its Silvertip Pipeline into and upon the Yellowstone River and adjoining shorelines in a quantity as may be harmful (the ‘Discharge’) near Laurel, Montana.” [District of Montana, USA v. Exxon Mobile, Consent Degree, filed [12/23/20](#)]

Mercer Represented Meta In A Lawsuit From Montana Over Child Safety

2023: Montana Sued Meta Alleging The State Made Adult Content Available For Children. “After being dealt a blow in the state’s efforts to ban TikTok, Montana Attorney General Austin Knudsen is now suing Instagram and its parent company and affiliates alleging the company makes adult content available for children and violates state and federal consumer protection laws. Knudsen, on behalf of the state, filed a lawsuit Friday in federal court asking a judge to declare that Instagram and parent company Meta are conducting deceptive and unfair trade practices, to enjoin the company from doing so, and to award the state civil penalties and investigatory and litigation costs.” [Daily Montanan, [12/5/23](#)]

- **Mercer Represented Meta.**

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[District of Montana, Montana v. Meta, Motion for Extension, filed [1/31/24](#)]

2024: Meta Defeated The Finalized Challenge Against Their Child Safety Complaints. “Meta Platforms (META.O), opens new tab and Chief Executive Mark Zuckerberg won the dismissal of a lawsuit claiming they misled shareholders in Meta's proxy statement about their ability to ensure the safety of children who use Facebook and Instagram. In a decision on Tuesday, U.S. District Judge Charles Breyer in San Francisco said the plaintiff Matt Eisner failed to show that shareholders suffered economic losses from Meta's alleged inadequate disclosures.” [Reuters, [10/22/24](#)]

Mercer Faced Criticism As A U.S. Attorney For Federalizing And Politicizing Cases And Civil Service Hirings**2006: A Montana District Judge Criticized Mercer For Federalizing Cases For Politicized Purposes, Saying He Neglected His Duties And Had “No Credibility”**

2006: Montana’s Chief Federal Judge, Donald Molloy, Accused Mercer Of Federalizing Criminal Cases Arbitrarily Because It’s Politically Popular, And Asked “Do You Ever Concern Yourself With Justice?” During A Federal Court Session. “In an abrasive court hearing Tuesday, Montana’s chief federal judge reviled U.S. Attorney Bill Mercer, accusing him of federalizing criminal cases arbitrarily and because it’s politically popular. ‘Do you ever concern yourself with justice?’ Chief U.S. District Judge Don Molloy asked Mercer during a federal court session in Missoula.” [NACDL, [5/17/06](#)]

The Judge Asked If Mercer Had “Any Respect For Montana And The State’s Court System,” Because The Judge Thought The Case Belonged In State Court. “Molloy agreed with Goetz, asking Mercer if he had ‘any respect for Montana and the state’s court system.’ ‘This is a state case,’ Molloy said. ‘What is the federal interest in prosecuting this case? Clearly this person was rehabilitated. You know what this seems like to me? This seems like a number. This seems like a statistic.’” [NACDL, [5/17/06](#)]

The Judge Accused Mercer Of Neglecting His Duties In Montana, Claiming They Were Not Getting Their Briefs In On Time And Stated “Your Office Is A Mess.” “But on Tuesday, Molloy again charged Mercer with neglecting his duties in Montana while on dual assignment. ‘Your lawyers are not getting their briefs in on time,’ Molloy said. ‘You’re in Washington, D.C., and you ought to be here in Montana doing your work. Your office is a mess.’” [NACDL, [5/17/06](#)]

The Judge Said Mercer Had “No Credibility.” “‘I have a very significant concern about how the U.S. attorney’s office has handled this,’ Molloy said. ‘You have no credibility,’ he said. ‘None.’” [NACDL, [5/17/06](#)]

2007: The White House Withdrew Mercer’s Name As The Nominee For The Associate Attorney General Position At The Justice Department

Mercer Faced Criticism Over His Residency, As He Resided In Washington, D.C. While Working As Montana’s Top Federal Lawyer

Mercer Worked In Washington, D.C. As Part Of Department Of Justice Leadership While Serving Montana As Their Top Federal Lawyer. “Under Bush, Mercer became part of the U.S. Department of Justice leadership and was working in Washington, D.C., while also serving the Montana district. For a time, Mercer served as the acting associate attorney general under then-Attorney General Alberto Gonzales. [...] Mercer’s absence from Montana angered Molloy, who told Gonzales that Mercer was living with family in D.C. and no longer met the residency requirement to be Montana’s top federal lawyer. In congressional testimony, Mercer said he spent about three days a month in Montana.” [Montana Free Press, [7/11/25](#)]

November 2005: Attorney General Alberto Gonzales Sent A Letter To Judge Molloy Stating That Mercer Was Not Violating Federal Law By Spending Most Of His Time In Washington. “On Nov. 10, 2005, Attorney General Alberto R. Gonzales sent a letter to a federal judge in Montana, assuring him that the U.S. attorney there, William W. Mercer, was not violating federal law by spending most of his time in Washington as a senior Justice Department official.” [NBC News, [5/2/07](#)]

That Same Day, Mercer Had A GOP Senate Staffer Insert A Provision Changing The Rules So That Federal Prosecutors Could Live Outside Their Districts To Serve In Other Jobs, Retroactively

Benefiting Him. “That same day, Mercer had a GOP Senate staffer insert into a bill a provision that would change the rules so that federal prosecutors could live outside their districts to serve in other jobs, according to documents and interviews Congress passed the provision several months later as part of the USA Patriot Act reauthorization bill, retroactively benefiting Mercer and a handful of other senior Justice officials who pull double duty as U.S. attorneys and headquarters officials.” [NBC News, [5/2/07](#)]

Mercer Withdrew His Name From Consideration For The Associate Attorney General Position At The Justice Department, Which Democrats Claimed Was To Avoid Answering Questions About A U.S. Attorneys Firing Scandal

June 2007: Mercer Asked The White House To Remove Him From Consideration For The Associate Attorney General Position At The Justice Department After Serving As Acting Associate AG Since September 2006. “The White House has withdrawn the name of William Mercer as the nominee for the associate attorney general position at the Justice Department. Mercer, who has been serving as the acting associate attorney general since September 2006, asked the White House to remove him from consideration from the position.” [ABC News, [6/22/07](#)]

Mercer Said It Was “Highly Unlikely” That The Judiciary Committee And Senate Would Take Prompt Action On His Nomination. “In his letter notifying Attorney General Alberto Gonzales of the decision, Mercer wrote, “I have concluded that it is highly unlikely that both the Judiciary Committee and the Senate will take prompt action on my nomination in the near term, if ever. ‘This view is informed in part by statements suggesting that some senior Justice nominees will not be voted upon until the Senate receives e-mails and witnesses it has demanded from the White House,’ Mercer continued.” [ABC News, [6/22/07](#)]

Senate Democrats Noted That The Then-GOP Controlled Senate Also Did Not Give Mercer A Hearing, And Claimed The Bush Administration Did Not Want Mercer To Face Questions About A U.S. Attorney Firing Scandal. “President Bush has withdrawn the nomination of William Mercer for the third-highest ranking position at the Justice Department. Both Mercer and the White House blames delays in Senate confirmation for the withdrawal, but Democrats point out that Mercer was actually nominated last year and the GOP-controlled Senate never gave him a hearing either. [...] Senate Judiciary Committee Chairman Patrick Leahy (D-Vt.) said the White House actually withdrew Mercer's nomination because Bush administration officials didn't want him to face questions about the U.S. attorney firing scandal during Tuesday's hearing.” [Politico, [6/22/07](#)]

- **Mercer Delivered The Firings To A Group Of U.S. Attorneys.** “Since President Bush took office, one of the administration’s most loyal and valued advisors at the Justice Department has been William W. Mercer. When a team of young White House and Justice Department staffers decided to fire a group of U.S. attorneys on Pearl Harbor Day 2006, it was left to Mercer to be the bearer of the bad news to some of the prosecutors.” [Los Angeles Times, [7/20/08](#)]

2008: A DOJ Watchdog Found That Mercer Politicized Hirings

A Report From Justice Department Watchdogs Found That Mercer Failed To Exercise Diligent Oversight When Department Attorneys Applied An Ideological Litmus Test To Candidates. “And when other department attorneys decided to apply an ideological litmus test to candidates for honors and internship positions, Mercer went along, or at least failed to exercise diligent oversight, according to a report last month by Justice Department watchdogs, the Office of the Inspector General and the Office of Professional Responsibility.” [Los Angeles Times, [7/20/08](#)]

- **Mercer Claimed He Must Have Assumed One Candidate Was Being Considered For A Political Appointment, Rather Than An Honors Program Position, Despite Explicitly Referencing The Honors Program In His E-Mail.** “When we questioned Mercer about this e-mail, he said he did not

recall being asked about this candidate, although he had a vague recollection of talking to the reference named in the candidate's application about the candidate. Mercer said he probably assumed that Hruska was asking about a candidate for a political appointment such as a special assistant, rather than for the Honors Program. However, Mercer said he could not say why he referred to the Honors Program in his e-mail. He said he understood in 2002 that while the candidates' liberal affiliations would have been legitimate considerations for a political position, they would not have been legitimate considerations for an Honors Program position." [Office of the Inspector General, June [2008](#)]

- **The Report Concluded That Mercer “Did Not Adequately Address The Concerns That Were Brought To His Attention” Regarding Politicized Deselections.** “Finally, we concluded that Acting Associate Attorney General Mercer did not adequately address the concerns that were brought to his attention by several senior Department officials that the Screening Committee's deselections appeared to have been politicized. In his role as Associate Attorney General, Mercer had oversight authority over the Tax Division and Civil Division, as well as other components participating in the Honors Program and SLIP hiring process. In addition, one of his own staff members, McDonald, was a member of the Screening Committee. When Mercer questioned McDonald about the criteria the Screening Committee had applied, McDonald told him that the deselections were based on concerns about academic records, sloppiness of applications, and at times, ‘a concern that [the applicants] wouldn't be able to follow DOJ policy based upon what they had written.’” [Office of the Inspector General, June [2008](#)]

Mercer's Counsel, Esther Slater McDonald, Was Found To Have Violated Civil Service Laws And Department Regulations Because She Considered Politics And Ideology In Filling Positions. “Around the same time, a young attorney named Esther Slater McDonald was hired as counsel to Mercer, who assigned her to a committee that screens candidates for the coveted department honors program. The Justice watchdog report last month concluded that McDonald violated civil service laws and department regulations because she considered politics and ideology in filling the positions.” [Los Angeles Times, [7/20/08](#)]

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