

## Rising Star: WilmerHale's Catherine Carroll

By Kurt Orzeck

*Law360, Los Angeles (April 7, 2016, 11:42 AM ET)* -- WilmerHale partner Catherine Carroll helped convince the U.S. Supreme Court to strike down Florida's capital sentencing scheme, and the same court appointed her to argue in favor of a position that the Obama administration disavowed in an employment discrimination suit, earning her one of six spots on Law360's 2016 list of top appellate attorneys under 40.

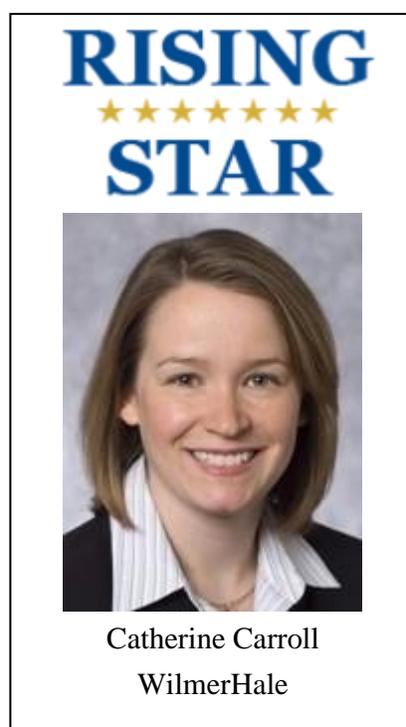
Carroll landed on the Rising Stars list by helping persuade the high court in January of this year to reverse the Florida Supreme Court's affirmance of a death sentence for Timothy Lee Hurst, who was convicted of first-degree murder. A jury had recommended death by a vote of 7 to 5.

Carroll and other WilmerHale attorneys represented Hurst on a pro bono basis after certiorari was granted. They argued that the Sixth Amendment had been violated because the factual finding of at least one aggravating circumstance was entrusted to a judge, not a jury. The Supreme Court's majority agreed, with Justice Sonia Sotomayor saying a jury's mere recommendation of a death sentence wasn't enough and that Florida's sentencing scheme was unconstitutional.

Carroll, who helped lead WilmerHale's briefing team, said working on the case was rewarding.

"I've been fortunate to work on several death penalty matters. It's an area I care about a lot, where you see a lot of unfairness or arbitrariness in many cases, sometimes to a shocking degree," she said. "Sometimes you have the opportunity to succeed in bringing increased fairness to the process, which happened in this case."

Carroll in July 2015 got a call from Justice Sotomayor's chambers inviting her to become one of a select group of lawyers chosen by the Supreme Court to argue in front of it by appointment instead of through a client. She was picked to argue in former postmaster Marvin Green's suit accusing the U.S. Postal Service of constructively discharging him in retaliation for his prior claims of racial discrimination.



The Tenth Circuit affirmed a district court's decision to toss some of the claims because they were filed too long after a settlement agreement between Green and the USPS. Carroll argued in support of the Tenth Circuit's decision as *amicus curiae*.

The justices in November questioned the viability of pegging the start date of a former employee's adversarial work environment claim to the last allegedly discriminatory act rather than the worker's resignation, highlighting the ambiguity surrounding the standard.

"It was a huge honor to be appointed to do the argument, and it was unique because we didn't have a client," Carroll said. "We had a position that the court wanted us to defend, but we didn't have a human being to give us feedback."

Carroll's success in the Hurst case and argument in the Green case came after she made her debut before the Supreme Court on her birthday in 2013. She helped lead Hartford Life & Accident Insurance Co. and Wal-Mart Stores Inc. to victory in an Employee Retirement Income Security Act case challenging contractual limitations periods in benefit plans.

Carroll also helped lead the briefing team representing Alliance for Open Society International Inc., Pathfinder International, InterAction and Global Health Council in their Supreme Court case brought by Open Society International. In that case, the Supreme Court ruled 6-2 that Carroll's clients' First Amendment rights had been violated when they were required to adopt a policy opposing prostitution and sexual trafficking if they were to receive federal funding.

The WilmerHale partner was named one of Law360's Rising Stars in 2014.

Carroll said the firm's leaders provide opportunities for younger attorneys to participate in high-profile cases. She advised attorneys who are aspiring to make partner to seize on those opportunities and to find mentors, like she did with WilmerHale Appellate Chair and former U.S. Solicitor General Seth Waxman.

"Waxman and the whole appellate group are very conscious about trying to promote the next generation of lawyers in the group and ensure that being at a younger age is not a disadvantage," Carroll said.

Waxman, for his part, said that he knew from his first meeting with Carroll that she was "a born advocate."

"She's brilliant, she's an effective communicator, and she has a natural, disarming wit," Waxman said. "Her writing is precise and compelling; no name-calling or aspersions cast, just crisply written, logical persuasion that compels you to agree with her."

--Additional reporting by Aaron Vehling and Daniel Wilson. Editing by Rebecca Flanagan.

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