

WilmerHale Secures US Supreme Court Victory in Immigration Case

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WilmerHale secured a 5-to-4 Supreme Court ruling for the firm's pro bono client, an immigrant from Nigeria. The ruling will potentially impact more than 20,000 immigrants each year.

The case, *Dada v. Mukasey*, arose when Dada came to the United States, married an American woman, and overstayed his visa. After the Government initiated removal proceedings, immigration officials granted Dada's request to depart voluntarily from this country. Dada then sought to withdraw his request for voluntary departure so that he could pursue a motion to reopen, which permits an immigrant to submit new evidence to immigration officials. In the Government's view, however, Dada only had two legal options: Remain in the country to await a decision on his motion to reopen and incur statutory penalties, or depart voluntarily, but forfeit the motion. Justice Kennedy, writing for the Court, wrote that these options left immigrants like Dada "between Scylla and Charybdis." The Court's decision instead "safeguard[s]" an immigrants' right to pursue a motion to reopen, and therefore permits immigrants like Dada to present new facts to the immigration agency.

WilmerHale Partner Christopher J. Meade argued the case for Dada. On the same day of the ruling, June 16, Meade learned that he will argue another case before the Supreme Court in December, marking his third Supreme Court argument in three consecutive Terms. In the new case, the Supreme Court granted the Solicitor General's petition for certiorari in *Peake v. Simmons*. *Peake* involves a question of veterans' rights—whether the Department of Veterans Affairs (or the veteran) should bear the burden of proving prejudice when the Department fails to give a veteran statutorily required notice.