
WilmerHale Secures US Supreme Court Victory in Right to Counsel Case

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Today WilmerHale's [Danielle Spinelli](#) secured a Supreme Court victory in *Rothgery v. Gillespie County, Texas*, for pro bono client Walter Allen Rothgery. The decision holds that a criminal defendant's Sixth Amendment right to counsel attaches upon the defendant's initial appearance before a judicial officer—when the defendant is informed of a formal accusation against him and restrictions are imposed on his liberty.

The case arose when Rothgery was arrested on charges of being a felon in possession of a firearm—a crime of which he was innocent, since he was not, in fact, a felon. He was brought before a magistrate, who informed him of the accusation against him and required him to post bond or remain in jail pending disposition of the accusation. Rothgery repeatedly requested a lawyer, but none was appointed. Six months later, he was indicted, his bond was increased to an amount he could not afford, and he was again jailed. Counsel was then appointed, proved Rothgery was not a felon, and obtained his release, but only after he had served nearly three weeks in jail on the erroneous charges.

Rothgery brought suit against Gillespie County for violating his Sixth Amendment right to counsel; the district court granted summary judgment to the County, and the Fifth Circuit affirmed, on the ground that Rothgery's right to counsel did not attach until he was indicted. After WilmerHale successfully sought certiorari, the Court held, in an opinion by Justice Souter, that Rothgery's initial appearance before the magistrate marked the beginning of his criminal prosecution and triggered his Sixth Amendment right to counsel.