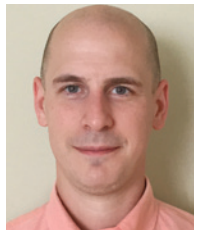


Justices Pick Former Thomas Clerk for Supreme Court Debut

BY TONY MAURO

The U.S. Supreme Court recently appointed Chicago lawyer Adam Mortara to argue in an upcoming case brought by Travis Beckles, a Miami man challenging the federal sentencing guidelines for career offenders.

It may seem like an odd fit for Mortara, a trial lawyer at Bartlit Beck Herman Palenchar & Scott who specializes in intellectual property cases and has never argued before the high court.



Adam Mortara

But here is why it makes sense: Mortara is a lecturer on federal habeas law at the University of Chicago Law School, where some of his students have gone on to become high court law clerks; he has handled related cases before the U.S. Court of Appeals for the 11th Circuit,



U.S. Supreme Court.

Photo: Diego M. Radzinski/ALM

where the *Beckles* case arose; and, perhaps most importantly, Mortara clerked for Justice Clarence Thomas 14 years ago.

“It’s a natural fit,” Mortara said in an interview, acknowledging that “the inference is clearly there” that his clerkship for Thomas was a factor in his appointment, though he said he has not spoken with the jus-

tice about it. Thomas is the circuit justice for the 11th Circuit, and recommending lawyers for appointment as oral advocates is one of his duties.

The court appointed Mortara to advance an argument in *Beckles v. United States* that the U.S. solicitor general no longer wants to make—a situation that arises a few times a year.

By longstanding tradition, justices usually appoint former law clerks who have never appeared before the court to make this type of orphaned argument—often giving them a launching pad for careers as appellate advocates. John Roberts Jr., now chief justice, made his first Supreme Court argument in such a case, as did Maureen Mahoney, now a retired partner at Latham & Watkins. Last term, three of the seven Supreme Court arguments made by women who were not employed by government entities were the result of such appointments.

“I’m excited to argue at the court,” Mortara said, though he is not certain it will lead him to an appellate specialty rather than trial work. Because of his experience with habeas cases, Mortara said he does not think the learning curve will be steep for him as he prepares to argue the case, which is likely to be set for sometime in December.

Also easing the burden, Mortara said, is the fact that he has no client as such. “It liberates you from the pure advocacy role. My job is to be helpful” to the court in deciding on an

aspect of the case that both sides now agree on, he said. “It’s like being every justice’s fifth law clerk.”

Beckles’ lawyers and the solicitor general’s office will argue other issues in the case, leaving to Mortara the task of discussing one point only: whether the 2015 Supreme Court decision in *Johnson v. United States*, which struck down part of the Armed Career Criminal Act, applies to a similarly-worded clause in the sentencing guidelines.

The 11th Circuit ruled that it does not apply, but the government’s brief stated that the solicitor general agrees with Beckles that it does. Without someone like Mortara defending the 11th Circuit position, the pros and cons of the issue would not get aired at oral argument.

Unlike other lawyers appointed to argue before the court, Mortara said he will not ask his law firm colleagues to help. “My firm has been incredibly supportive” of him taking on the assignment, Mortara said. But since he is the only lawyer at the firm who deals with habeas-related issues, he will work with former students and

others to prepare for the case. “There won’t be a big impact on firm resources.”

When President Barack Obama visited the University of Chicago Law School in April, Mortara was critical of Obama’s time there as a professor from 1992 to 2004. “He had literally zero engagement with the law school community,” Mortara told Crain’s Chicago Business, though he also added, “A few of my classmates did take classes with him and they said he was fantastic.”

Asked about the comments, Mortara said on Tuesday, “Justice Thomas has always taught us to not be afraid to say what we believe.”

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