

Gideon v. Wainwright (1963)

Argued: January 15, 1963

Decided: March 16, 1963

Background

Part of the Bill of Rights, the Sixth Amendment to the U.S. Constitution protects the rights of people accused of crimes. Among these protections is the right to have a criminal defense lawyer's assistance. That means that the government cannot prevent someone from consulting with a lawyer and having a lawyer represent them in court. Not everyone who has been accused of a crime, however, can afford to hire a lawyer. In 1938, the U.S. Supreme Court ruled that, in federal criminal courts, the government must pay for a lawyer for **indigent** defendants who cannot afford one themselves. People are considered indigent if they are so poor that they are unable to afford the necessities of life like food and shelter. *Gideon v. Wainwright* is a case about whether or not that right must also be extended to indigent defendants charged with crimes in state courts, where most crimes are prosecuted.

The 14th Amendment says that states shall not “deprive any person of life, liberty, or property, without due process of law.” The Supreme Court has ruled that some of the constitutional rights that at first only protected people from infringement by the federal government, are so fundamental to the concept of liberty (protected by the 14th Amendment) that they must also apply to state governments. In 1963, the Supreme Court reconsidered whether, in criminal cases, the right to counsel paid for by the government was one of those fundamental rights, even though it had held the opposite only 21 years before.

Facts

In 1961, someone burglarized the Bay Harbor Pool Room in Panama City, Florida. Based partly on eyewitness reports, police arrested Clarence Earl Gideon after he was found nearby with a pint of wine and some change in his pockets. Gideon, who could not afford a lawyer, asked the Florida court to appoint one for him. The judge denied his request. At that time Florida law required appointment of counsel for indigent defendants only in capital (death penalty) cases. Gideon defended himself at trial, but the jury found him guilty of breaking and entering and petty larceny, which are felonies under Florida law.

While serving his five-year sentence in a Florida state prison, Gideon began studying law. His study reaffirmed his belief that his rights were violated when the Florida Circuit Court refused his request for appointed counsel. Gideon filed a *habeas corpus* petition, arguing that he was improperly imprisoned because he had been refused a free lawyer during his trial, thus violating his constitutional rights guaranteed by the Sixth Amendment. The Florida Supreme Court ruled against him. From his prison cell, Gideon hand-wrote a petition to the U.S. Supreme Court, asking the

Court to hear his case. The Supreme Court agreed and appointed lawyer Abe Fortas, who was later named as a justice to the Supreme Court, to argue on his behalf.

Issue

Does the Sixth Amendment's right to counsel in criminal cases extend to defendants in state courts, even in cases in which the death penalty is not at issue?

Constitutional Amendments and Supreme Court Precedents

- **Sixth Amendment to the U.S. Constitution**

“In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense.”

- **14th Amendment to the U.S. Constitution**

“...nor shall any State deprive any person of life, liberty, or property, without due process of law....”

- ***Powell v. Alabama (1932)***

Nine teenagers were accused of assaulting two women. All nine were tried on one day within a week after being indicted and were found guilty in Alabama state court and sentenced to death. No lawyer represented the teens. The Supreme Court ruled that accused persons in a capital case have the right to counsel for their defense, which includes the right to have sufficient time to consult with counsel and to prepare a defense. The Court said that this is one of the fundamental rights that must be applied to the states under the 14th Amendment. The Court also said that state courts must appoint counsel, whether requested or not, when the defendant is incapable of making an adequate defense because of “ignorance, feeble-mindedness, illiteracy or the like.”

- ***Johnson v. Zerbst (1938)***

The Supreme Court said that the Sixth Amendment requires that, in federal criminal cases that could be punishable by imprisonment, lawyers must be provided for defendants too poor to hire their own lawyer, unless the accused person waives that right.

- ***Betts v. Brady (1942)***

Betts was convicted of robbery in Maryland under circumstances very similar to Gideon's. Despite Betts' request that a lawyer be appointed for him, the Supreme Court ruled that the 14th Amendment did not require states to provide counsel to the poor in non-death-penalty cases.

Arguments for Gideon (petitioner)

- Fair trials cannot be assured unless everyone has the assistance of a lawyer. The average person does not have the knowledge, resources, and skill required to provide an adequate legal defense for themselves.
- The Supreme Court has ruled that the right to counsel in death penalty cases is fundamental and applies to the states (*Powell v. Alabama*), but not in non-death-penalty cases (*Betts v. Brady*). This is not logical, and *Betts v. Brady* should be overturned. The Sixth Amendment does not distinguish between types of criminal cases, and neither does the 14th Amendment. Even non-capital crimes can result in long prison sentences, which is depriving someone of their liberty. There is no “trivial” criminal case because a person’s liberty is at stake.
- Society changed its thinking about the right to counsel between 1942, when *Betts v. Brady* was decided, and 1963, when *Gideon* came before the Court. At the time of the *Betts v. Brady* decision, fewer than half of the states required appointment of counsel to the poor. At the time of Gideon’s arrest, over 45 states required it.
- There is broad support to overturn *Betts v. Brady*. Twenty-two states filed amicus curiae, (“friend of the court”) briefs to support the application of the Sixth Amendment right to counsel to state courts regardless of the type of offense.

Arguments for Wainwright (respondent)

- *Betts v. Brady* established that in any criminal case a defendant is entitled to counsel if they can claim special circumstances that show they would be denied a fair trial without counsel. Gideon did not claim such circumstances.
- The United States has a federal system in which the federal government may not exercise arbitrary power over the states. Imposing an inflexible rule on states that all defendants are entitled to counsel if they cannot afford one would allow the Supreme Court (the federal government) to intrude into states’ powers. A state should be free to adopt any system it chooses, experimenting and adopting the types of rules and procedures it feels are necessary in its own courts.
- It is possible for a defendant without a lawyer to have a fair trial. Several judges may be involved in the processing of a defendant including arraignment, pretrial, and the trial. This exposure to multiple judges protects the defendant who is without a lawyer, as each judge knows the law and will ensure that the defendant is treated fairly. In any case, representation by a lawyer does not automatically guarantee a fair trial.
- The Supreme Court should uphold *Betts v. Brady*, which was decided only 21 years before *Gideon*. The Court considered this issue then and issued a ruling that should remain in force.

- If *Betts v. Brady* is overturned, states would have to provide lawyers to the indigent in all criminal prosecutions, no matter how small or trivial they are. This would place a tremendous burden on the taxpayers of every state.

Decision

The Supreme Court ruled unanimously for Gideon. Justice Black delivered the opinion for the Court. Justices Douglas, Harlan, and Clark wrote concurring opinions, mostly concerned about why the Court was overturning a precedent that was only 21 years old or whether the 14th Amendment applied all of the Bill of Rights to the states. The Supreme Court in *Gideon* said that the right to the assistance of counsel in felony criminal cases is a fundamental right essential to a fair trial. Therefore, this protection from the Sixth Amendment applied to state courts as well as federal courts. State courts must appoint counsel to represent defendants who cannot afford to pay for their own lawyers if charged with a felony.

The Court said that the best proof that the right to counsel is fundamental and essential is that governments spend a lot of money to establish systems of justice and hire lawyers to prosecute crimes. Those defendants who can afford to almost always hire the best lawyer they can get. This indicates that both the government and defendants consider the aid of a lawyer in criminal cases absolutely necessary. In addition, the opinion noted that the Constitution places great emphasis on procedural safeguards designed to guarantee that defendants get fair trials.

Impact

The Court's *Gideon* decision is rightfully regarded as one of the most significant of the cases decided by the Warren Court in what has been called a due process revolution. The right to have a free lawyer provided by the government has even become part of the Miranda warnings given to those arrested by the police. At the time, the Gideon decision only applied to criminal defendants charged with felonies. In 1972, the Court decided the case of *Argersinger v. Hamlin*, which extended the *Gideon* rule so that poor defendants charged with misdemeanors could not be imprisoned unless they had received free legal counsel. *Gideon* and subsequent cases did not have any constitutional impact in terms of creating a constitutional right for legal aid in civil (non-criminal) cases.

Even though *Gideon* led to the creation of public defender offices and government-provided lawyers nationwide, it has had practical limitations. Adequate resources are always a problem, and courts and policymakers have struggled with how effective or experienced the free counsel needs to be. Today, more than 50 years later, it is fair to say *Gideon* stands as a significant landmark in securing the ideal of fair justice for all, even though its promise is still somewhat unfulfilled.

Additional information about *Gideon v. Wainwright*, including background at three reading levels, opinion quotes and summaries, teaching activities, and additional resources, can be found at <https://www.landmarkcases.org/>.