GIDEON v. WAINWRIGHT (1963)

Case Background
At the time the Constitution was adopted, British courts denied lawyers to individuals charged with treason or felonies. People accused of criminal misdemeanors, however, were provided lawyers. The American colonies and, later, the states, rejected this practice. Most of the original thirteen states allowed defendants in all cases to have lawyers. Through the years, the Supreme Court has heard several cases involving the question of whether poor criminal defendants had a right to a lawyer at public expense, or whether the Sixth Amendment merely meant that the government could not stop accused persons from hiring one.

In 1961, Clarence Earl Gideon was arrested in Florida for breaking into a Panama City pool hall with the intent to steal money from the vending machines. This was a felony. When Gideon appeared in court, his request for a court-appointed lawyer was denied, as Florida law only required lawyers for defendants charged with capital offenses. Gideon defended himself at trial. He was found guilty, and sentenced to five years in prison.

While in prison, Gideon made frequent use of the prison library. With the knowledge he gained there, along with the help of a fellow inmate with a legal background, he submitted a hand-written petition to the Supreme Court. In his petition, he challenged the constitutionality of his conviction, as he had not been able to have the assistance of counsel for his defense.
KEY QUESTION

Does the Sixth Amendment guarantee the right to counsel in all cases? Further, does the Sixth Amendment require government to provide a lawyer to defendants who want one but cannot afford one?

Documents you will examine:

A  Sections of Colonial and State Constitutions, 1641-1777
B  Section of the Sixth Amendment, 1791
C  Section of the Fourteenth Amendment, 1868
D  Powell v. Alabama, 1932
E  Betts v. Brady, 1942
F  Clarence Gideon’s Petition to the Supreme Court, 1962
G  Unanimous Majority Opinion, Gideon v. Wainwright, 1963
H  Concurring Opinion, Gideon v. Wainwright, 1963
I  “I Can’t Defend Myself”, 2004
**DOCUMENT A**

**Sections of Colonial and State Constitutions, 1641-1777**

*The Body of Liberties of the Massachusetts Collonie in New England, 1641*

Every man that findeth himselfe unfit to plead his owne cause in any Court shall have Libertie to imploy any man against whom the Court doth not except, to helpe him, Provided he give him noe fee or reward for his paines.

*Virginia Declaration of Rights, 1776*

8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favour, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

*Vermont Constitution, 1777*

X. That, in all prosecutions for criminal offences, a man hath a right to be heard, by himself and his counsel—to demand the cause and nature of his accusation....

*Georgia Constitution, 1777*

Art. LVIII. No person shall be allowed to plead in the courts of law in this State, except those who are authorized so to do by the house of assembly; and if any person so authorized shall be found guilty of malpractice before the house of assembly, they shall have power to suspend them. This is not intended to exclude any person from that inherent privilege of every freeman, the liberty to plead his own cause.

- Underline sections that protect a right to counsel.

**DOCUMENT B**

**Section of the Sixth Amendment, 1791**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

- Compare or contrast this document with at least one selection from Document A.
Section of the Fourteenth Amendment, 1868
No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law...

- What level of government does this amendment restrict?
- Is the Sixth Amendment’s protection of right to counsel in Document B part of the “due process” protected by the Fourteenth Amendment?

Powell v. Alabama, 1932
Let us suppose the extreme case of a prisoner charged with a capital offense, who is deaf and dumb, illiterate, and feeble-minded, unable to employ counsel, with the whole power of the state arrayed against him, prosecuted by counsel for the state without assignment of counsel for his defense, tried, convicted, and sentenced to death. Such a result, which, if carried into execution, would be little short of judicial murder, it cannot be doubted would be a gross violation of the guarantee of due process of law; and we venture to think that no appellate court, state or federal, would hesitate so to decide....

The United States by statute and every state in the Union by express provision of law, or by the determination of its courts, make it the duty of the trial judge, where the accused is unable to employ counsel, to appoint counsel for him. In most states the rule applies broadly to all criminal prosecutions, in others it is limited to the more serious crimes, and in a very limited number, to capital cases. A rule adopted with such unanimous accord...lends convincing support to the conclusion we have reached as to the fundamental nature of that right.

- What does the Court mean by “judicial murder” in the first paragraph?
- What reason does the Court give for its conclusion that the right to counsel is of a “fundamental nature” in the second paragraph?
Betts v. Brady, 1942

The Sixth Amendment of the national Constitution applies only to trials in federal courts. The due process clause of the Fourteenth Amendment does not incorporate, as such, the specific guarantees found in the Sixth Amendment.

Asserted denial [of due process] is to be tested by an appraisal of the totality of facts in a given case. That which may, in one setting, constitute a denial of fundamental fairness, shocking to the universal sense of justice, may, in other circumstances and in the light of other considerations, fall short of such denial.

States should not be straight-jacketed in this respect by a construction of the Fourteenth Amendment.

- To which level of government does this ruling assert the Sixth Amendment applies?
- What method does the Court assert should be used when determining whether a state denied a defendant due process?
Clarence Gideon’s Petition to the Supreme Court, 1962

[Partial transcript] Petitioner submits that the Supreme Court of the United States has the authority and jurisdiction to review the final judgment of the Supreme Court of the state of Florida ... because the “due process clause” of the Fourteenth Amendment and the fifth and sixth articles of the Bill of Rights has [sic] been violated....

- What constitutional rights does Gideon claim the state of Florida has violated?

Since 1942, when *Betts v. Brady* ... was decided by a divided Court, the problem of a defendant’s federal constitutional right to counsel has been a continuing source of controversy and litigation in both state and federal courts....

We accept *Betts v. Brady*’s assumption, based as it was on our prior cases, that a provision of the Bill of Rights, which is “fundamental and essential to a fair trial” is made obligatory upon the States by the Fourteenth Amendment. We think the Court in *Betts* was wrong, however, in concluding that the Sixth Amendment’s guarantee of counsel is not one of these fundamental rights.

[R]eason and reflection require us to recognize that in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth. Governments ... spend vast sums of money to ... try defendants accused of crimes. ...Similarly, there are few defendants charged with crime, few indeed, who fail to hire the best lawyers they can get to prepare and present their defenses. That government hires lawyers to prosecute and defendants who have the money hire lawyers to defend are the strongest indications of the widespread belief that lawyers in criminal courts are necessities, not luxuries.

The Court in *Betts v. Brady* departed from the sound wisdom upon which the Court’s holding in *Powell v. Alabama* rested. Florida, supported by two other States, has asked that *Betts v. Brady* be left intact. Twenty-two states, as friends of the Court, argue that *Betts* was “an anachronism when handed down” and that it should now be overruled. We agree.

- On what key reasons does the unanimous Court base its ruling?

[T]he Constitution makes no distinction between capital and noncapital cases. The Fourteenth Amendment requires due process of law for the deprival of “liberty” just as for deprival of “life,” and there cannot constitutionally be a difference in the quality of the process based merely upon a supposed difference in the sanction involved. How can the Fourteenth Amendment tolerate a procedure which it condemns in capital cases on the ground that deprival of liberty may be less onerous than deprival of life—a value judgment not universally accepted or that only the latter deprival is irrevocable? I can find no acceptable rationalization for such a result, and I therefore concur in the judgment of the Court.

- Summarize the main idea of the concurring opinion.
DOCUMENT I

“I Can’t Defend Myself,” 2004

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I can’t defend myself. I need appointed counsel.

And yet you’ve gotten your case all the way to the Supreme Court. How ironic.

DIRECTIONS

Answer the Key Question in a well-organized essay that incorporates your interpretations of Documents A-I, as well as your own knowledge of history.

KEY QUESTION

Does the Sixth Amendment guarantee the right to counsel in all cases? Further, does the Sixth Amendment require government to provide a lawyer to defendants who want one but cannot afford one?

IDENTIFY THE PEOPLE IN THE CARTOON AND THE POINT OF VIEW OF THE CARTOONIST.
Hamdi v. Rumsfeld, 2004

...Born an American citizen in Louisiana in 1980, Yaser Esam Hamdi moved with his family to Saudi Arabia as a child. By 2001, the parties agree, he resided in Afghanistan. At some point that year, he was seized by members of the Northern Alliance, a coalition of military groups opposed to the Taliban government, and eventually was turned over to the United States military ... [because the Government believed he participated in the waging of war against the United States].

The Government contends that Hamdi is an “enemy combatant,” and that this status justifies holding him in the United States indefinitely—without formal charges or proceedings—unless and until it makes the determination that access to counsel or further process is warranted....

Hamdi asks us to hold that the Fourth Circuit also erred by denying him immediate access to counsel upon his detention and by disposing of the case without permitting him to meet with an attorney. Since [we agreed to hear] this case, Hamdi has been appointed counsel, with whom he has met for consultation purposes on several occasions, and with whom he is now being granted unmonitored meetings. He unquestionably has the right to access to counsel in connection with the proceedings on remand. No further consideration of this issue is necessary at this stage of the case....

- Should citizens who are accused of waging war against the United States have the right to counsel?