

## ***Gideon v. Wainwright (1963)***

**Argued:** January 15, 1963

**Decided:** March 16, 1963

### ***Background***

The Sixth Amendment to the U.S. Constitution protects the rights of people accused of crimes. Among these protections is the right to have the assistance of a lawyer for one's defense. That means that the government cannot prevent someone from consulting with a lawyer and having a lawyer represent them in court. However, not everyone who has been accused of a crime can afford to hire a lawyer. In 1938, the Supreme Court ruled that, in federal criminal courts, the government must pay for a lawyer for defendants who cannot afford one themselves. *Gideon v. Wainwright* is a case about whether or not that right must also be extended to defendants charged with crimes in state courts.

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 our concept of liberty (protected by the 14th Amendment) that they must also apply to state governments. In 1963, the Supreme Court had to decide whether, in criminal cases, the right to counsel paid for by the government was one of those fundamental rights.

### ***Facts***

In 1961, a burglary occurred at the Bay Harbor Pool Room in Panama City, Florida. 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, arguing that the Sixth Amendment entitles everyone to a lawyer. The judge denied his request. Florida state law required appointment of counsel for indigent defendants only in capital (death penalty) cases. Gideon defended himself at trial and did not do well. He was found guilty of breaking and entering and petty larceny, a felony 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 the right to counsel 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 wrote a petition to the U.S. Supreme Court, asking the Court to hear his case. The Supreme Court agreed to hear Gideon's case.

### ***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***

– **U.S. Constitution, Amendment VI**

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

– **U.S. Constitution, Amendment XIV**

"...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, counsel must be appointed for defendants too poor to hire their own lawyer, unless the accused person waives that right.

– ***Betts v. Brady (1942)***

Betts was charged with robbery in Maryland. He requested that a lawyer be appointed for him since he was unable to afford one. The judge in the case denied the request. Betts argued his own defense and was convicted. 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)***

- We cannot assure fair trials 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 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 someone’s liberty is at stake.
- There was a change in thinking about the right to counsel between 1942, when *Betts v. Brady* was decided and 1963, when *Gideon* was in front of 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 briefs to support the application of the Sixth Amendment right to counsel to state courts regardless of type of offense.

***Arguments for Wainwright (respondent)***

- *Betts v. Brady* established that in any criminal case a defendant is entitled to counsel if he can claim special circumstances that show he would be denied a fair trial without counsel. Gideon did not claim such circumstances.
- The U.S. 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 20 years before *Gideon*. The Court considered this issue then and issued a ruling that should remain.
- 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. Justices Harlan and Clark wrote concurring opinions.

The Supreme Court overturned part of *Betts v. Brady*, in which it had concluded that the Sixth Amendment's guarantee of counsel is not a fundamental right. Instead, the 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 try to convict defendants and 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.

*NOTE:* The decision in *Gideon* did not have any legal impact in terms of providing free legal counsel for the poor in civil cases. In fact the 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 indigent misdemeanants could not be imprisoned unless they had received free legal counsel.