

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

"If an obscure Florida convict named Clarence Earl Gideon had not sat down in his prison cell . . . to write a letter to the Supreme Court . . . the vast machinery of American law would have gone on functioning undisturbed. But Gideon did write that letter, the Court did look into his case . . . and the whole course of American legal history has been changed."

—Robert F. Kennedy



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## About landmarkcases.org

This site was developed to provide teachers with a full range of resources and activities to support the teaching of landmark Supreme Court cases, helping students explore the key issues of each case. The "Resources" section features basic building blocks such as background summaries and excerpts of opinions that can be used in multiple ways. The "Activities" section contains a range of short activities and in-depth lessons that can be completed with students. While these activities are online, many of them can be adapted for use in a one-computer classroom or a classroom with no computer.

Depending upon the amount of time you have to teach the case, you may want to use one or more of the "Resources" or "Activities" in conjunction with one or more of the general teaching strategies. These general teaching strategies include moot court activities, political cartoon analysis, continuum exercises, and Web site evaluation.

If you have time constraints, look at the Teaching Recommendations on page 3.

Feel free to experiment with these materials!

## Teaching Recommendations Based on Your Time

If you have one day . . .

- Begin your study of *Gideon* by having students complete the activity titled "[Document Analysis](#)."
- Read the appropriate background summary as a class and have students answer the questions. Discuss as a class.
- Complete the video activity, "[Does a Lawyer Really Make a Difference in a Trial?](#)"
- For homework, have students read the key excerpts from the majority opinion and answer the questions. (In doing the video activity, students will have already found out the outcome of the case. Have them read the opinion anyway. Tell them it's important that they understand the Court's reasoning.)

If you have two days . . .

- Begin your study of *Gideon* by having students complete the activity titled "[Document Analysis](#)."
- Read the appropriate background summary as a class and have students answer the questions. Discuss as a class.
- Complete the activity titled "[What Does the Sixth Amendment Mean? To Whom Does it Apply?](#)"
- For homework, have students read the key excerpts from the majority opinion and answer the questions.
- On the second day, discuss the homework. Move on to the video activity titled, "[Does a Lawyer Really Make a Difference in a Trial?](#)"
- Complete the [Political Cartoon Analysis](#).
- If desired, for homework, have students complete the activity titled "[Expanding Criminal Rights](#)."

If you have three days . . .

- Complete the activity titled "[Document Analysis](#)."
- Read the appropriate background summary as a class and have students answer the questions. Discuss as a class.
- For homework, have students complete the activity titled "[What Does the Sixth Amendment Mean? To Whom Does it Apply?](#)"
- On the second day, complete the video activity, titled "[Does a Lawyer Really Make a Difference in a Trial?](#)"
- Read the key excerpts from the majority opinion and answer the questions.
- For homework, have students complete the [Political Cartoon Analysis](#).

### ***Gideon v. Wainwright***

- On the third day, discuss responses to the political cartoon activity. Use that as a lead in to the activity titled "[WebQuest on How to Provide Counsel to Indigent Defendants](#)." There will probably not be enough time for presentations, so the class can skip that portion of the activity.
- For homework, have students respond to the question in the conclusion section of the WebQuest.

If you have four days . . .

- Complete all the activities listed for "If you have three days" with the exception of the homework for the third day. For homework, have students finalize their WebQuest presentations instead of doing the conclusion question.
- On the fourth day, have students present their WebQuest findings. Students should respond in writing to the question in the conclusion section of the WebQuest.
- For homework, have students complete the activity titled "[The Evolution of a Decision](#)" or "[Expanding Criminal Rights](#)."

\* In lieu of the WebQuest on days three and four, have students peruse the "Additional Resources" and respond to the following questions: Is there "equal justice under the law" for rich and poor defendants in this country? Explain. If not, what do you think needs to be done to ensure that all people receive "equal justice under the law"? Follow up with a class discussion.

## Background Summary and Questions • • •

Between midnight and 8:00 am on June 3, 1961, a burglary occurred at the Bay Harbor Pool Room in Panama City, Florida. Someone broke a window, smashed the cigarette machine and jukebox, and stole money from both. Later that day, a witness reported that he had seen Clarence Earl Gideon in the poolroom at around 5:30 that morning. When Gideon was found nearby with a pint of wine and some change in his pockets, the police arrested him and charged him with breaking and entering.

Gideon was a semi-literate drifter who could not afford a lawyer, so at the trial, he asked the judge to appoint one for him. Gideon argued that the Court should do so because the Sixth Amendment says that everyone is entitled to a lawyer. The judge denied his request, ruling that the state did not have to pay a poor person's legal defense unless he was charged with a capital crime or "special circumstances" existed. Gideon was left to represent himself.

As might be expected, Gideon did a poor job of defending himself. He had done no preparation work before his trial; his choice of witnesses was unusual—for instance, he called police officers who arrested him to testify on his behalf, not having any reason to believe they would help his case. He had no experience in cross-examining a witness in order to impeach that person's credibility, so his line of questioning was not as productive as a lawyer's would have been.

Gideon was found guilty of breaking and entering and petty larceny, which was a felony. He was sentenced to five years in a Florida state prison, partly because of his prior criminal record. While in prison, he began studying law in the prison library, believing that his Sixth Amendment rights had been violated when he was denied a defense lawyer paid for by the State. His study of the law led him to file a petition for *habeas corpus* with the Supreme Court of Florida, which asked that he be freed because he had been imprisoned illegally. After the Supreme Court of Florida rejected his petition, he handwrote a petition for a *writ of certiorari* to the Supreme Court of the United States, asking that it hear his case. The Court allowed him to file it *in forma pauperis*, which meant that the Court would waive the fees generally associated with such a petition. Generally, the Court dismisses most of these petitions; Gideon's was among those that it did not dismiss.

In state criminal trials, are indigent defendants entitled to a lawyer, even in noncapital cases? That was the question the Court agreed to decide when they accepted Gideon's petition. It was not merely a question of whether Gideon had been treated fairly; the Court's ruling would affect many other people who faced similar circumstances. In a previous decision, *Betts v. Brady* (1942), the Court had held that in state criminal trials, an indigent defendant must be supplied with an attorney only in special circumstances, which included complex charges and incompetence or illiteracy on the part of the defendant. Since Gideon had not claimed special circumstances, the Court would have to overturn *Betts* in order to rule in Gideon's favor. (Florida's state law provided indigent defendants with lawyers only in capital cases; many other states had laws providing lawyers to most or all indigent defendants.)

## Background Summary and Questions • • •

### Questions to Consider:

1. What were the accusations against Clarence Gideon?
2. Did Gideon seem capable of defending himself? How could a lawyer have helped him?
3. What was unusual about the petition Gideon filed with the Supreme Court of the United States?
4. Why did the Supreme Court of the United States agree to hear Gideon's case?
5. What is the language in the Bill of Rights that is relevant to this case? Would you interpret those words to mean a defendant cannot be denied an attorney if he can afford one, or that a defendant must be provided an attorney even if he cannot afford one? Why?
6. Do you think the states should be required to provide defendants like Gideon with a lawyer? Why or why not?

## **Background Summary and Questions ••**

Between midnight and 8:00 a.m. on June 3, 1961, a burglary occurred at the Bay Harbor Pool Room in Panama City, Florida. In the course of the burglary, a window was smashed and the cigarette machine and jukebox were broken into. A witness claimed to have seen Clarence Earl Gideon in the poolroom early that morning. When Gideon was found nearby with a pint of wine and some change in his pockets, the police arrested him. They charged him with breaking and entering.

Gideon was a semi-literate drifter who could not afford a lawyer. When he appeared at the Florida Circuit Court for trial, he asked the judge to appoint one for him. Gideon argued that the Court should do so because the Sixth Amendment says that everyone is entitled to a lawyer. The judge denied his request, claiming that the state doesn't have to provide a poor person with a lawyer unless "special circumstances" exist. Gideon was left to represent himself. He had been arrested many times before, so he understood some of the legal procedures. However, he did a poor job of defending himself. For instance, his choice of witnesses was unusual—he called the police officers who arrested him to testify on his behalf. He lacked skill in questioning witnesses, which made it difficult for him to present his case.

Gideon was found guilty of breaking and entering and petty larceny, which is a felony in Florida. He was sentenced to five years in a Florida state prison. While there, he began studying law in the prison library. Gideon's study of the law reaffirmed his belief that the Circuit Court's refusal to appoint counsel for him constituted a denial of his rights. With that in mind, he filed a petition with the Supreme Court of Florida for *habeas corpus*, which is an order to free him because he had been illegally imprisoned. That petition was rejected, but Gideon persevered. From his prison cell, he handwrote a petition asking the Supreme Court of United States to hear his case. The Court allowed him to file it *in forma pauperis*, or free of charge. After reading the petition, they agreed to hear his case.

When the Supreme Court of the United States agrees to hear a case, it does so because the case "presents questions whose resolution will have an immediate importance far beyond the particular facts and parties involved" (Lewis 25). The justices were interested not simply with the merits of Gideon's case, but with the larger issue of whether poor people charged with noncapital offenses are entitled to a free lawyer in state criminal trials. In a 1942 case, *Betts v. Brady*, the Court had ruled that in state criminal trials, the state must supply an indigent defendant with a lawyer only if special circumstances exist. These special circumstances include complex charges, incompetence, and illiteracy on the part of the defendant. Gideon did not claim any of these special circumstances, so for the Court to rule in his behalf, they would need to overturn *Betts v. Brady*. The Supreme Court of the United States asked both sides to present arguments on the issue of "Should *Betts v. Brady* be overturned"?

### **Works Cited**

Lewis, Anthony. *Gideon's Trumpet*. New York: Random House, 1964.

## Background Summary and Questions ••

### Questions to Consider:

1. What were the charges against Gideon?
2. Did Gideon seem to be capable of defending himself? Could a lawyer have helped him? If so, how?
3. What was unique about the petition that Gideon filed with the Supreme Court of the United States?
4. Why did the Supreme Court of the United States agree to hear Gideon's case?
5. In *Betts v. Brady*, the Court had said that in state courts, poor people are entitled to an attorney free of charge only if "special circumstances" existed. Gideon did not claim any "special circumstances". Do you think that states should be required to provide him and others like him with a lawyer? Why or why not?

## Background Summary and Questions •

### Vocabulary

#### **witness**

Define:

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Use in a sentence:

---

#### **legal defense**

Define:

---

Use in a sentence:

---

#### **entitled**

Define:

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Use in a sentence:

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#### **felony**

Define:

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Use in a sentence:

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#### **indigent**

Define:

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Use in a sentence:

On June 3, 1961, someone broke into the Bay Harbor Pool Room in Panama City, Florida. Some beer and wine were stolen. The cigarette machine and jukebox were smashed and money was missing. A witness said he saw Clarence Earl Gideon in the poolroom early that morning. The police found Gideon and arrested him. He had a lot of change in his pockets and was carrying a bottle of wine. They charged him with breaking and entering.

Gideon was poor. He could not afford a lawyer. At the trial, he asked the judge to appoint a lawyer for him. The judge said no. Gideon argued that the Sixth Amendment says he is entitled to a lawyer. The judge told Gideon that the state doesn't have to pay for a poor person's legal defense. This meant that Gideon had to defend himself. He tried hard but didn't do a very good job. For example, he called some witnesses who helped the other side more than they helped him.

Gideon was found guilty and was sentenced to five years in jail. He thought that this was unfair because he had not been given a lawyer. He asked the Supreme Court of Florida to release him but the court said no. Gideon kept trying. He wrote a petition and sent it to the Supreme Court of the United States. When it read what Gideon had written, the Court agreed to hear his case.

In an earlier case, *Betts v. Brady*, the Court had ruled that in state criminal trials, the state must supply a poor defendant with a lawyer only if there are "special circumstances". These special circumstances could be that the case is very complicated or that the person is illiterate or not competent to represent himself. Gideon did not claim any of these special circumstances. The Court needed to decide if it should get rid of this "special circumstances" rule. If it did so, then poor people like Gideon would be given a lawyer if charged with a felony in a state court.

## Background Summary and Questions •

### Questions to Consider:

1. What was Gideon accused of doing?
2. At the trial, what did Gideon ask the judge to give him? Do you think this would have helped him? Why or why not?
3. What did Gideon send to the Supreme Court of the United States?
4. Why did the Supreme Court of the United States agree to hear Gideon's case?
5. Do you think that poor people who are accused of crimes should be given a free lawyer? Why or why not?

## Diagram of How the Case Moved Through the Court System

### Supreme Court of the United States

The Court agrees to hear Gideon's case and appoints a lawyer to represent him. In a unanimous decision, the Court ruled that in state felony criminal cases, a person who cannot afford an attorney must be provided one. Thus, *Betts v. Brady* is overturned.

*Gideon v. Wainwright* (1963)

Note: Just before the Supreme Court made its decision, Wainwright replaced Cochran as Director of the Division of Corrections.



### Supreme Court of the State of Florida

Claiming the circuit court's refusal to appoint counsel for him constitutes a denial of his rights, Gideon applies to the state supreme court for a writ of habeas corpus (an order asking that he be freed because he was illegally imprisoned). The court denies the request.

*Gideon v. Cochran* (1961)



### Circuit Court of the Fourteenth Judicial Circuit of Florida

Gideon, a poor man living in Florida, is arrested and charged with breaking and entering. He cannot afford a lawyer and the judge refuses to appoint one, ruling the court will only supply lawyers in capital cases. Gideon is convicted and sentenced to jail.

*State v. Gideon* (1961)

## Key Excerpts from the Majority Opinion

**The decision was unanimous.  
Justice Black delivered the opinion of the Court.**

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 [sic] source of controversy and litigation in both state and federal courts. To give this problem another review here, we granted *certiorari* . . . Since *Gideon* was proceeding *in forma pauperis*, we appointed counsel to represent him and requested both sides to discuss in their briefs and oral arguments the following: "Should this Court's holding in *Betts v. Brady* be reconsidered?"

. . . .

The Sixth Amendment provides, "In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence." We have construed this to mean that in federal courts counsel must be provided for defendants unable to employ counsel unless the right is competently and intelligently waived. *Betts* argued that this right is extended to indigent defendants in state courts by the Fourteenth Amendment. In response, the Court stated that, while the Sixth Amendment laid down "no rule for the conduct of the States, the question recurs whether the constraint laid by the Amendment upon the national courts expresses a rule so fundamental and essential to a fair trial, and so, to due process of law, that it is made obligatory upon the States by the Fourteenth Amendment." . . . In order to decide whether the Sixth Amendment's guarantee of counsel is of this fundamental nature, the Court in *Betts* set out and considered "[r]elevant data on the subject.

. . . .

On the basis of this historical data the Court concluded that "appointment of counsel is not a fundamental right, essential to a fair trial."

. . . .

Explicitly recognized to be of this "fundamental nature" and therefore made immune from state invasion by the Fourteenth . . . are the First Amendment's freedoms of speech, press, religion, assembly, association, and petition for redress of grievances . . . the Fifth Amendment's command that private property shall not be taken for public use without just compensation, the Fourth Amendment's prohibition of unreasonable searches and seizures, and the Eighth's ban on cruel and unusual punishment.

. . . .

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. Ten years before *Betts v. Brady*, this Court . . . had . . . declared that "the right to the aid of counsel is of this fundamental character." *Powell v. Alabama*, . . . (1932). While the Court at the close of its *Powell* opinion did . . . limit its holding to the particular facts and circumstances of that case, its conclusions about the fundamental nature of the right to counsel are unmistakable.

. . . Not only these precedents but also reason 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, both state and federal . . . spend vast sums of money to . . . try defendants accused of

## ***Gideon v. Wainwright***

crime . . . 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 right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours. From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him. A defendant's need for a lawyer is nowhere better stated than in the moving words of Mr. Justice Sutherland in *Powell v. Alabama*:

"The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he has a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence." . . .

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.

The judgment is reversed and the cause is remanded to the Supreme Court of Florida for further action not inconsistent with this opinion.

## Key Excerpts from the Majority Opinion

### Questions to Consider:

1. Why did the Supreme Court of the United States agree to hear Gideon's case?
2. Prior to this case, which rights were considered to be "fundamental and essential to a fair trial" and thus "made obligatory on the States by the Fourteenth Amendment"? Why do you think the right to a lawyer was not included in this list?
3. What did the Court say about the right to counsel in the Powell case?
4. When Justice Black says, "Governments, both state and federal . . . spend vast sums of money to . . . try defendants accused of crime. . . . 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", what point is he trying to make? Provide an example of a recent case in which "vast sums of money" were spent. Do you think it made a difference in the outcome of the case? Explain.
5. Many of the decisions the Supreme Court of the United States makes are based on the principle of *stare decisis*, or let the previous decision stand. In the case of *Gideon v. Wainwright*, the Court clearly broke with a precedent it had established. Was it justified in doing so?

## Key Excerpts from the Concurring Opinions

Justice Clark wrote a concurring opinion.

....

That the Sixth Amendment requires appointment of counsel in "all criminal prosecutions" is clear, both from the language of the Amendment and from this Court's interpretation. . . . It is equally clear from the above cases, all decided after *Betts v. Brady*, . . . (1942), that the Fourteenth Amendment requires such appointment in all prosecutions for capital crimes. The Court's decision today, then, does no more than erase a distinction, which has no basis in logic and an increasingly eroded basis in authority.

....

I must conclude here . . . that the Constitution makes no distinction between capital and noncapital cases. The Fourteenth Amendment requires due process of law for the deprivation of "liberty" just as for deprivation 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 deprivation of liberty may be less onerous than deprivation of life—a value judgment not universally accepted or that only the latter deprivation is irrevocable? I can find no acceptable rationalization for such a result, and I therefore concur in the judgment of the Court.

### Questions to Consider:

1. Justice Clark agrees with the other justices that *Betts v. Brady* should be overturned. However, he cites a different reason. What reason does he give?
  
  
  
  
  
  
  
  
  
  
2. Do you agree or disagree with Justice Clark's reasoning? Explain.

## Key Excerpts from the Concurring Opinions

**Justice Harlan wrote a concurring opinion.**

. . . In 1932, in *Powell v. Alabama*, . . . a capital case, this Court declared that under the particular facts there presented—"the ignorance and illiteracy of the defendants, their youth, the circumstances of public hostility . . . and above all that they stood in deadly peril of their lives"—the state court had a duty to assign counsel for the trial as a necessary requisite of due process of law.

. . . .

Thus when this Court, a decade later, decided *Betts v. Brady*, it did no more than to admit of the possible existence of special circumstances in noncapital as well as capital trials, while at the same time insisting that such circumstances be shown in order to establish a denial of due process.

. . . .

The Court has come to recognize, in other words, that the mere existence of a serious criminal charge constituted in itself special circumstances requiring the services of counsel at trial.

. . . .

The special circumstances rule has been formally abandoned in capital cases, and the time has now come when it should be similarly abandoned in noncapital cases, at least as to offenses, which, as the one involved here, carry the possibility of a substantial prison sentence.

. . . .

In agreeing with the Court that the right to counsel in a case such as this should now be expressly recognized as a fundamental right embraced in the Fourteenth Amendment, I wish to make a further observation. When we hold a right or immunity, valid against the Federal Government, to be "implicit in the concept of ordered liberty" and thus valid against the States, I do not read our past decisions to suggest that by so holding, we automatically carry over an entire body of federal law and apply it in full sweep to the States. Any such concept would disregard the frequently wide disparity between the legitimate interests of the States and of the Federal Government, the divergent problems that they face, and the significantly different consequences of their actions.

. . . .

On these premises I join in the judgment of the Court.

### Questions to Consider:

1. What are Justice Harlan's beliefs regarding "special circumstances"?
2. Some people believe that the passage of the Fourteenth Amendment meant that all of the rights in the Bill of Rights applied to the states, and not just the federal government. Why is Justice Harlan hesitant to make this generalization?

## Document Analysis

### Directions:

A. View the documents on the following pages (photo and text).

B. Complete the following:

1. Type of document (Check one):

- Newspaper
- Letter
- Patent
- Memorandum
- Map
- Telegram
- Press release
- Report
- Advertisement
- Congressional record
- Census report
- Other

2. Unique physical qualities of the document. (Check one or more. For each item that you check, note details.)

- Interesting letterhead
- Handwritten
- Typed
- Seals
- Notations
- "RECEIVED" stamp
- Other

3. Author (or Creator) of the document:

4. Why do you think this document was written?

5. What evidence in the document helps you know why it was written? Quote from the document.

Adapted from:

National Archives and Records Administration. "Written Document Analysis Worksheet. [Online] 14 May 2002.

<<http://www.nara.gov/education/teaching/analysis/write.html>>.

C. Discuss responses with your classmates

DIVISION OF CORRECTIONS  
CORRESPONDENCE REGULATIONS

APR 21 1962  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

MAIL WILL NOT BE DELIVERED WHICH DOES NOT CONFORM WITH THESE RULES

No. 1 -- Only 3 letters each week, not to exceed 3 sheets letter-size 8 1/2 x 11" and written on one side only and if folded paper, do not write between lines. Your complete name must be signed at the close of your letter. Clipping, stamp, letters from other people, stationery or card must not be enclosed in your letters.

No. 2 -- All letters must be addressed in the complete prison name of the inmate. Cell number, where applicable, and prison number must be placed in lower left corner of envelope. Use your complete name and address in the upper left corner.

No. 3 -- Do not send any packages without a Package Permit. Uncharacterized packages will be destroyed.

No. 4 -- Letters must be written in English only.

No. 5 -- Books, magazines, pamphlets, and newspapers of reputable character will be delivered only if mailed direct from the publisher.

No. 6 -- Money must be sent in the form of Postal Money Orders only. In the inmate's complete prison name and prison number.

INSTITUTION \_\_\_\_\_ CELL NUMBER \_\_\_\_\_

NAME \_\_\_\_\_ NUMBER \_\_\_\_\_

In The Supreme Court of the United States  
October Term, 1961  
No. 810 Miss.  
Clarence Earl Gideon, petitioner  
-vs-  
H.G. Cochran, Director, Division of Corrections, State of Florida respondent.

Answer to respondent's response to petition for writ of certiorari.

Petitioner Clarence Earl Gideon received a copy of the response of the respondent in the mail dated sixth day of April, 1962. Petitioner cannot make any pretense of being able to answer the learned attorney General of the State of Florida because the petitioner is not an attorney or versed in law nor does he have the law books to copy down the decisions of this Court. But the petitioner knows there is many of them nor would the petitioner be allowed to do so according to the book of Revised Rules of the Supreme Court of the United States sent to me by Clerk of the same court. The response of the respondent is out of time (Rule 24).

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INSTITUTION \_\_\_\_\_ CELL NUMBER \_\_\_\_\_

NAME \_\_\_\_\_ NUMBER \_\_\_\_\_

under this rule the respondent has thirty days in which to make a response. The respondent claims that a citizen can get a equal and fair trial without legal counsel that the constitution of the United States does not apply to the state of Florida. Petitioner thinks that the fourteenth amend makes this so. Petitioner will attempt to show this court that a citizen of the state of Florida cannot get a just and fair trial without the aid of counsel. Petitioner when he wrote his petition for writ of Habeas Corpus to the Florida Supreme court and his petition to this Court for a writ of Certiorari and this brief was and is not allowed to send out a prepared petition. Petitioner is required to write his petition under duress or as the attorney general rates under physical restraint. If the petitioner had a attorney he could send at any kind of a petition he was so minded to, which shows he cannot have equal rights to the law unless he does have a attorney. The same thing applies to the

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No. 3 -- Do not send any packages without a Package Permit. Uncharacterized packages will be destroyed.

No. 4 -- Letters must be written in English only.

No. 5 -- Books, magazines, pamphlets, and newspapers of reputable character will be delivered only if mailed direct from the publisher.

No. 6 -- Money must be sent in the form of Postal Money Orders only. In the inmate's complete prison name and prison number.

INSTITUTION \_\_\_\_\_ CELL NUMBER \_\_\_\_\_

NAME \_\_\_\_\_ NUMBER \_\_\_\_\_

lower court. If the petitioner would had a attorney there would not of been allowed such things as hear say against him. Petitioner claims that there was never the crime of breaking and entering ever committed. At that time he call on the Federal Bureau of investigation for help at Panama City, Fla. But was told they could not do nothing about it. Respondent claims that I have no right to file petition for a writ of Habeas corpus to take away this right to a citizen and there is nothing left. It makes no difference how old I am or what color I am or what church I belong too if any. The question is did I get a fair trial. The question is very simple. I requested the court to appoint me a lawyer and the court refused. All countries try to give there citizens a fair trial and see that they have counsel. Petitioner asks at this court to regard the response of the respondent because it was out of time and because he attorney General did not have one of his many assistant attorney Generals to help me a citizen of the state of

DIVISION OF CORRECTIONS  
CORRESPONDENCE REGULATIONS

APR 21 1962  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

MAIL WILL NOT BE DELIVERED WHICH DOES NOT CONFORM WITH THESE RULES

No. 1 -- Only 3 letters each week, not to exceed 3 sheets letter-size 8 1/2 x 11" and written on one side only and if folded paper, do not write between lines. Your complete name must be signed at the close of your letter. Clipping, stamp, letters from other people, stationery or card must not be enclosed in your letters.

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INSTITUTION \_\_\_\_\_ CELL NUMBER \_\_\_\_\_

NAME \_\_\_\_\_ NUMBER \_\_\_\_\_

Florida to write my petition or this brief. But instead force me to write these petitions under duress on this basis it is respectfully urged that the petition for a writ of certiorari shall be issue.

Clarence Earl Gideon  
Petitioner

State of Florida County of Union  
Petitioner Clarence Earl Gideon appearing before me being duly sworn affirms that the foregoing is of that the facts or correct and true and the certificate of service that follows sworn and subscribed before me this 18th day of April 1962

James A. Hunsley et. public  
certificate of service  
I hereby certify that a copy of the above and foregoing brief in support of writ of certiorari has been mailed to the respondent in aid cause and the attorney General State of Florida this day of April 1962

Clarence Earl Gideon  
Petitioner

Photos from <http://dpa.state.ky.us/library/advocate/mar03/gidpetition.html>

**In the Supreme Court of the United States  
October Term, 1961  
No. 890 Misc.**

**Clarence Earl Gideon, Petitioner**

**vs.**

**H.G. Cochran, Jr., Director, Division of Corrections. State of Florida, Respondent**

“Answer to respondent’s response to petition for Writ of Certiorari.”

Petitioner, Clarence Earl Gideon received a copy of the response of the respondent in the mail dated sixth day of April, 1962.

Petitioner can not make any pretense of being able to answer the learned Attorney General of the State of Florida because the petitioner is not an attorney or vessed in law nor does not have the law books to copy down the decisions of this Court. But the petitioner knows there is many of them. Nor would the petitioner be allowed to do so. According to the book of Revised Rules of the Supreme Court of the United States sent to me by Clerk of the same Court. The response of the respondent is out of time (Rule #24). Under this rule the respondent has thirty days in which to make a response.

The respondent claims that a citizen can get a equal and fair trial without legal counsel.

That the constitution of the United States does not apply to the State of Florida.

Petitioner thinks that the fourteenth ammend. makes this so.

Petitioner will attempt to show this Court that a citizen of the State of Florida cannot get a just and fair trial without the aid of counsel.

Petitioner when he wrote his petition for Writ of Habeas Corpus to the Florida Supreme Court and his petition to this Court for a Writ of Certiorari and this brief was and is not allowed to send out a prepared petition. Petitioner is required to write his petition under duress or as the Attorney General states, under physical restrain. If the petitioner had a attorney he could send out any kind of a petition he was so minded to. Which shows he can not have equal rights to the law unless he does have a attorney.

The same thing applies to the lower court. If the petitioner would of had a attorney there would not of been allowed such things as hearsay perjury or Bill of attainr against him.

Petitioner claims that there was never the crime of Breaking and Entering ever committed. At that time he call to the Federal Bureau of Investigation for help at Panama City, Fla., but was told they could not do nothing about it.

Respondent claims that I have no right to file petitions for a Writ of Habeas Corpus. Take away

***Gideon v. Wainwright***

this right to a citizen and there is nothing left.

It makes no difference how old I am or what color I am or what church I belong too if any. The question is I did not get a fair trial. The question is very simple. I requested the court to appoint me attorney and the court refused. All countrys try to give there Citizens a fair trial and see to it that they have counsel.

Petitioner asks of this court to disregard the response of the respondent because it was out of Time and because the Attorney General did not have one of his many assistant attorney generals to help me a citizen of the State of Florida to write my petition or this brief. But instead force me to write these petitions under duress. On this basis it is respectfully urged that the petition for Writ of Certiorari shall be issue.

Petitioner

Text from <http://www.ocpd.state.ct.us/Content/Gideon/Gideon%20Petition.htm>

## What Does the Sixth Amendment Mean? To Whom Does it Apply?

**Directions:** Read each section then answer the accompanying questions.

### Background Information

When the Constitution was first written, some people thought that it lacked provisions to protect the public from a potentially abusive government. These people insisted that a Bill of Rights be added to it. James Madison was commissioned to write this document. His original draft contained twelve amendments, one of which included a stipulation that the Bill of Rights would apply to the states. He thought that amendment was one of the most important amendments. Others disagreed with him, arguing that because many state constitutions had their own Bills of Rights, it would not be necessary to protect citizens from abuse at the hands of the state governments. The amendment was rejected and it was clear to most people that the Bill of Rights did not apply to the states.

Then, in 1868, when the Fourteenth Amendment was ratified, some people argued that it meant that the Bill of Rights applied to the states, while others insisted that it did not. This became the subject of intense debate for years to come. The scope of the Sixth Amendment, which appears below, was part of that debate.

### Amendment VI

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 defence.

### Questions to Consider:

1. This amendment and the other amendments in the Bill of Rights were originally written to protect citizens from which level of government?
  
  
  
  
  
  
  
  
  
  
2. Which of these Sixth Amendment rights did Gideon claim had been violated by the State of Florida?

**Gideon v. Wainwright**

3. What does "the Assistance of Counsel" mean? In what sense was Gideon permitted to have the "Assistance of Counsel"? In what sense was he denied it?
4. How could the State of Florida justify denying Gideon's request to appoint a lawyer for him?

**Amendment XIV**

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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; nor deny to any person within its jurisdiction the equal protection of the laws.

....

**Questions to Consider:**

1. Which clauses in the Fourteenth Amendment could be interpreted to mean that the Sixth Amendment "Assistance of Counsel" applies to the states?
2. What information could the State of Florida use to argue that the Sixth Amendment "Assistance of Counsel" does not apply to the states?

**Conclusion:**

You are a Supreme Court justice. You have considered Gideon's appeal and now must make a decision. **Is the State of Florida required to give Gideon a lawyer free of charge?** In answering this question, consider the following: Does the Sixth Amendment apply to the states? If so, what does the clause "Assistance of Counsel" mean? Does it mean that states must not forbid a defendant from having a lawyer or that they provide a defendant with a lawyer free of charge? Explain your reasoning.

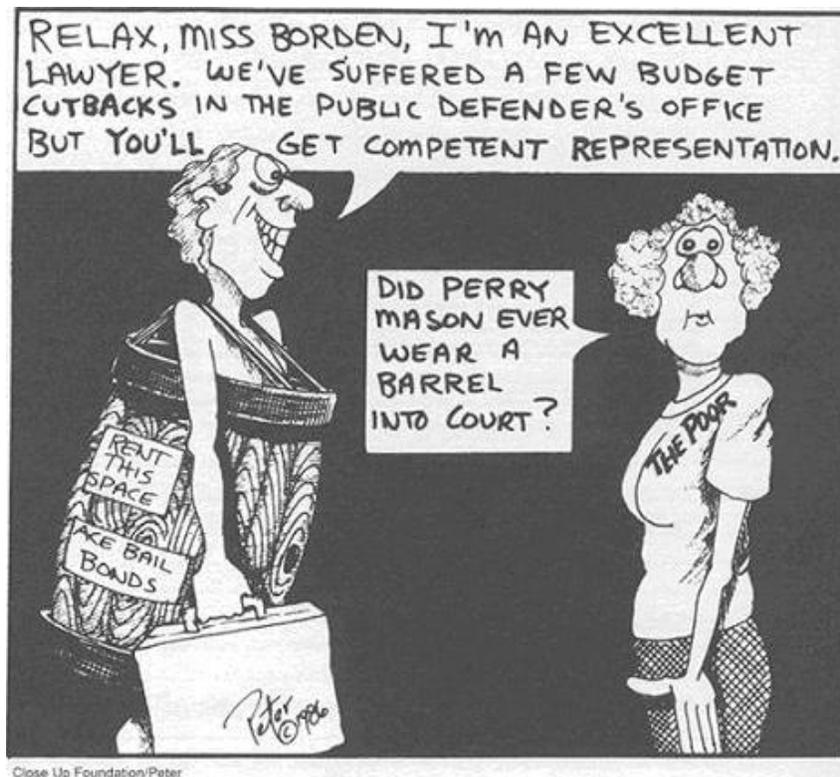




## Political Cartoon Analysis

Analyze the cartoon below in terms of its meaning related to the *Gideon v. Wainwright* case. Answering the following questions will help you correctly interpret the cartoon's meaning.

1. What do you see in the cartoon? Make a list. Include objects, people, and any characteristics that seem to be exaggerated.
2. Which of the things on the list from Question 1 are symbols? What does each stand for?
3. What is happening in the cartoon?
4. What is the cartoonist's message? Does he or she think that the decision in *Gideon v. Wainwright* has resulted in fair representation for poor defendants? Do you agree or disagree with the message? Explain your answer.



## The Evolution of a Decision

### Part I. Cases

**Directions:** Read each of the excerpts below. Then take notes on the cases. For each of the cases, include the following in your notes:

- Title of case
- Year it was decided
- Constitutional question
- Decision
- Reasoning

#### ***Powell v. Alabama***

The question of a defendant's right to a lawyer in state criminal procedures can be traced back to the 1932 Supreme Court decision in *Powell v. Alabama*. The problems began on a train when a fight broke out between two groups of youths—one group white, the other black. When the train reached the next station, the nine black youths were arrested and accused of raping two white women who had been on the train. Less than a week later, the trials were hurriedly conducted with three men being tried each day for three days. The judge had appointed "all the members of the bar" to represent the defendants, but these attorneys didn't even show up until after the trials were over, so another counsel was appointed on the day of the trial. All nine men were convicted and sentenced to death. They appealed and the case eventually reached the Supreme Court of the United States. The Court ruled that the defendants had been denied the right to counsel. In the opinion, Justice Sutherland wrote the following:

"The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of men of intelligence, how much more true is it of the ignorant and illiterate, or those of feeble intellect."

For these and other reasons, the Court ruled that in capital cases, defendants are entitled to an attorney.

#### ***Betts v. Brady***

Ten years after the decision in *Powell v. Alabama*, a case regarding the defendant's right to a lawyer was again before the Court in *Betts v. Brady*. In this case, a man in Maryland was accused of robbery. He was too poor to afford a lawyer, so he asked the state Circuit Court to appoint one. The court denied his request so he represented himself. He was convicted and sentenced to eight years in prison. When his petition to the Maryland Court of Appeals for *habeas corpus* was denied, he asked the Supreme Court of the United States to review his case.

Justice Roberts wrote the 6 to 3 opinion in which the Court considered the question of whether the rights in the Sixth Amendment were "so fundamental and essential to a fair trial, and so to due process of law,

### ***Gideon v. Wainwright***

that it is made obligatory upon the states by the Fourteenth Amendment" (Lewis 110). After conducting extensive research, the Court determined the following:

"This material demonstrates that, in the great majority of the States, it has been the considered judgment of the people, their representatives and their courts that appointment of counsel is not a fundamental right, essential to a fair trial. On the contrary, the matter has generally been deemed one of legislative policy. In the light of this evidence, we are unable to say that the concept of due process incorporated in the Fourteenth Amendment obligates the States, whatever may be their own views, to furnish counsel in every such case. . . . The states should not be strait-jacketed in this respect."

The Court went on to say this:

"Asserted denial [of due process of law] 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. In the application of such a concept, there is always the danger of falling into the habit of formulating the guarantee into a set of hard and fast rules, the application of which in a given case may be to ignore the qualifying factors. . . ."

In other words, poor defendants were entitled to a lawyer in "special circumstances," such as when the defendant was mentally disabled or the charges were especially complex. In other noncapital cases, states were not required to provide counsel.

### ***Gideon v. Wainwright***

Your teacher will assign a background summary for you to read.

Next, read the "Key Excerpts from the Majority Opinion."

### ***Argersinger v. Hamlin*** (from [www.oyez.org](http://www.oyez.org))

Facts of the Case - Jon Argersinger was an indigent charged with carrying a concealed weapon, a misdemeanor in the State of Florida. The charge carried with it a maximum penalty of six months in jail and a \$1,000 fine. During the bench trial in which he was convicted and sentenced to serve ninety days in jail, Argersinger was not represented by an attorney.

Question Presented - Do the Sixth and Fourteenth Amendments guarantee a right to counsel to defendants who are accused of committing misdemeanors?

Conclusion - In *Gideon v. Wainwright* (1963) the Court found that the Sixth and Fourteenth Amendments required states to provide an attorney to indigent defendants in cases involving serious crimes. In this case, a unanimous Court extended that right to cover defendants charged with misdemeanors who faced the possibility of a jail sentence. Justice Douglas's plurality opinion described the intricacies involved in misdemeanor charges and the danger that unrepresented defendants may fall victim to "assembly-line justice." Thus, in order to guarantee fairness in trials involving potential jail time, no matter how petty the charge, the Court found that the state was obligated to provide the accused with counsel.

## ***Gideon v. Wainwright***

### **Follow-up**

Create a time line of these cases. In your time line, include the year, the name of the case, and a one-sentence summary of the decision in each of the cases. What is the common thread in all of them?

### **Part II. Precedent**

In the United States, courts generally make decisions based on the precedent that has been established in earlier cases. This practice is called *stare decisis*, which is the Latin term for "to stand by what has been decided". Justice Brandeis once said, "In most matters it is more important that the applicable rule of law be settled than that it be settled right. . . . But in cases involving the Federal Constitution, where correction through legislative action is practically impossible, this Court has often overruled its earlier decisions. The Court bows to the lessons of experience and the force of better reasoning" (Lewis 84). In other words, the Court is sometimes justified in changing its mind. On over two hundred occasions, the Court has done exactly that when it overruled a prior decision, as it did in the case of *Gideon v. Wainwright*.

### **Questions to Consider:**

1. Why does the Court try, as much as possible, to follow the doctrine of *stare decisis*? What would our country be like if the Court did not follow precedents established in earlier cases?
2. What rationale does Justice Brandeis provide for the Court occasionally changing its mind?
3. Why did the Court change its mind in *Gideon v. Wainwright*? To what extent did it depart from its earlier decisions? Why did it do this?
4. What impact did the decision in *Gideon v. Wainwright* have on the due process rights of criminal defendants in the United States?

### **Works Cited**

Lewis, Anthony. *Gideon's Trumpet*. New York: Random House, 1964.





**Expanding Criminal Rights:  
*In re Gault and Argersinger v. Hamlin***

**Conclusion:**

In a well-written paragraph, respond to the questions that follow: What impact do you think the decisions in *Gault* and *Argersinger* have had on criminal justice in the United States? Do you agree or disagree with these decisions?

**Follow-up:**

The federal and state governments are NOT required to provide the parties with a free attorney in civil cases. Why is this permissible?