

GIDEON v. WAINWRIGHT

372 U. S. 335, 83 S.Ct. 792, 9 L.Ed. 2d 799

Argued January 15, 1963

Decided March 18, 1963



Clarence Earl Gideon was poor and had been in trouble with the law for most of his life; in fact, he had spent most of his adult life in jail. In 1961, Gideon was arrested in Florida for breaking and entering a poolroom with intent to commit petty larceny. At his trial on August 4, 1961, he asked the judge to appoint an attorney to represent him, but the judge refused. Under Florida law at that time, an indigent accused of a crime was entitled to the assistance of counsel only if charged with a capital offense--a crime for which the death penalty might be given. Since Gideon had not committed a capital offense, the judge refused his request.

In 1942, the U. S. Supreme Court ruled in *Betts v. Brady* that no man accused of a felony was automatically entitled to counsel unless he was a victim of "special circumstances." Some of these special circumstances were ignorance, illiteracy, youth, or where public hostility threatened the defendant, and Gideon was not such a victim. He was mature, sane, literate and, by now, reasonably familiar with courtroom procedure. Nor were the charges complicated.

Gideon defended himself to the best of his ability, but the six-man jury found him guilty and he was sentenced to five years in jail. With so many years of jail behind him he was not unduly distressed by a few more. He had a sense of justice and considerable jailhouse knowledge of the law. He obtained law books and prepared an appeal to the Florida Supreme Court. After losing in the state Supreme Court, he prepared a petition, handwritten with a pencil, asking the U. S. Supreme Court to consider his appeal. Such a petition is called *in forma pauperis*, or "as a pauper." In such cases, the Court may accept petitions from indigent individuals and then appoint counsel to represent them before the Court. In the *Gideon* case, the Court appointed Abe Fortas as his attorney.

- ISSUE: Does trying an indigent for a serious crime without providing him with a lawyer, at state expense, violate his Sixth Amendment right of counsel, as applied to the states through the Fourteenth Amendment right to due process of law?

GIDEON v. WAINWRIGHT (1963)
Decision

Justice Black read the decision for the unanimous Court, affirming Gideon's claim that every indigent charged with a crime serious enough to rate a lawyer is entitled to one. Gideon's personal struggle resulted in a victory for all future indigent defendants accused of serious crimes. Justice Black expressed the reasons for this new principle of law as follows:

Reason and reflection required us to recognize that in our adversary system of criminal justice, any person hailed 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, quite properly spend vast sums of money to establish machinery to try defendants accused of crime. "Lawyers to prosecute are everywhere deemed essential" to protect the public's interest in an orderly society. 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.

FOLLOW-UP: Gideon was retried, this time with a court-appointed attorney. Before the same judge and in the same courtroom, Gideon was acquitted.

The impact of *Gideon v. Wainwright* affected hundreds of convicts in Florida jails at the time of the decision. Anthony Lewis reported that, "by January 1, 1964, 976 prisoners had been released outright from Florida penitentiaries, the authorities feeling they could not be successfully retried. Another 500 were back in the courts, and petitions from

hundreds more were awaiting consideration." Of course, there was the chance that a retrial could get them a stiffer sentence.

When Gideon was given an advance copy of the book Anthony Lewis wrote about his case, *Gideon's Trumpet*, he held it in his hands and wept. And when a young man, walking with his wife, stopped to stare at him and asked, "You're Gideon, aren't you? I should thank you," he said. "You just got me out of prison." Gideon's sad face broke into a rare smile. "That made me feel pretty good," he beamed. Gideon died January 18, 1972.

NOTE: In 1972 the Supreme Court heard the case of *ARGERSINGER v. HAMLIN* which questioned if an indigent accused of a misdemeanor entitled to court-appointed counsel. The Court, ruled unanimously that an indigent defendant could not be "imprisoned for any offense whether classified as petty, misdemeanor, or felony, unless he was represented by counsel at his trial." Justice Douglas spoke for the Court, but several of the Justices wrote concurring opinions. Douglas wrote, "...absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor, or felony, unless he was represented by counsel at his trial."

In 2002, the Supreme Court heard *ALABAMA v. SHELTON* which questioned whether a suspended sentence that could end up in the actual imprisonment of the accused be imposed without the defendant being represented by an attorney at the trial. A divided Supreme Court ruled that an indigent defendant's right to a state-paid lawyer extends to misdemeanor cases that may result in a suspended jail sentence. By a five-to-four vote, the high Court upheld a ruling by the Supreme Court of Alabama by saying even a suspended sentence may not be imposed on a defendant too poor to hire a lawyer unless state-paid counsel has been appointed to represent the person.