

Recommended Citation

Kashgegian, Kristin (2010) "Implications of Gideon v. Wainwright on American Society," *Perspectives*: Vol. 2, Article 13.

Available at: <https://scholars.unh.edu/perspectives/vol2/iss1/13>

This Article is brought to you for free and open access by the Student Journals and Publications at University of New Hampshire Scholars' Repository. It has been accepted for inclusion in *Perspectives* by an authorized editor of University of New Hampshire Scholars' Repository. For more information, please contact Scholarly.Communication@unh.edu.

Perspectives

Volume 2 Spring 2010

Article 13

5-1-2010

Implications of Gideon v. Wainwright on American Society

Kristin Kashgegian

University of New Hampshire, Durham

Follow this and additional works at: <https://scholars.unh.edu/perspectives>

Kristin Kashgegian
May 8, 2010
JUST 701
Final Research Paper

Implications of Gideon v Wainwright on American Society

“Your Honor, I request this Court to appoint counsel to represent me in this trial,”¹ stated defendant Clarence Earl Gideon before the Judicial Circuit Court of Florida. The court replied, “Mr. Gideon, I am sorry, but I cannot appoint counsel to represent you in this case. Under the laws of the State of Florida, the only time the court can appoint counsel to represent a Defendant is when that person is charged with a capital offense. I am sorry, but I will have to deny your request for counsel to defend you in this case.”² Before 1963 there was no standard in American state courts requiring counsel as an essential fundamental right. *Gideon v Wainwright* is a landmark case in Supreme Court history because it was a vital step in the fight for the right to legal counsel. The court unanimously ruled that all state courts were required under the Sixth Amendment, of the United States Constitution, to provide counsel in all criminal cases for defendants who were not able to afford counsel.³ *Gideon* overruled a twenty year old Supreme Court decision in *Betts v Brady* by establishing that due process as incorporated in the Fourteenth Amendment obligated the states to furnish counsel in every case. *Gideon v Wainwright* has helped to remove vulnerabilities and ambiguities in the criminal justice system. It further protects American society by helping to provide an egalitarian system of administering justice, setting a

¹ Anthony Lewis, *Gideon's Trumpet* (New York: Random House Inc, 1964), 10.

² Ibid.

³ *Gideon v Wainwright*, 372, U.S. 335 (1963)

clear standard for state courts to follow and allowing room for future developments in the right to counsel.

Background

The 1932 Supreme Court Case *Powell v Alabama* was the beginning of the fight for the right to legal counsel. *Powell v Alabama* was a capital trial which involved nine African American men who were accused of raping two young white women. The African American men were traveling in a train with seven white males and two white females. A fight broke out on the train and all of the white males, except for one, were thrown from the train. The women accused the African American men of rape. All of the defendants, except for one, were sentenced to death by the Alabama Supreme Court.⁴ The defendants were only given access to their lawyers immediately prior to the trial, allowing no time to plan an adequate defense. Chief Justice Anderson noted that had the defendants had more time, or opportunity to get in touch with their families and friends, who were scattered throughout two other states, they would have had a better opportunity to consult with counsel. Justice Anderson referenced that “time has demonstrated that they could or would have been represented by able counsel, had a better opportunity been given by a reasonable delay in the trial of the cases, judging from the number and activity of counsel that appeared immediately or shortly after their conviction.”⁵ The ruling was appealed on the grounds that the group was not provided sufficient legal counsel. The Supreme Court opinion reversed and remanded the decisions of the Alabama Supreme Court, holding that due process had been violated. The decision determined that in a capital trial, the defendant must be given access to counsel upon his or her own request as part of due process.

⁴ *Powell v Alabama*, 287 U.S. 49 (1932).

⁵ *Ibid.*

Although *Powell v Alabama* was a capital trial it marked the start of a historic advance for the right to legal counsel which *Gideon v Wainwright* later extended.

Before *Gideon v Wainwright*, there were several restrictions in the fight for legal counsel. The 1942 federal Supreme Court case *Betts v Brady*, involved a man charged with robbery, similar to the defendant in *Gideon v Wainwright*. The defendant had asked the court for a lawyer to be appointed for him because he was too poor to hire one. The court decided that the appointment of counsel was not a fundamental right essential to a fair trial. Specifically, the *Betts v Brady* court opinion stated a “refusal of a trial court to appoint counsel for one prosecuted for robbery who requests such appointment on the ground that he is without funds to employ counsel is not a denial of due process of law.”⁶ *Betts v Brady* looked at the dynamics of due process as written in the Fourteenth Amendment of the Constitution. It states, “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.”⁷ The court decision in *Betts v Brady* could not establish that the concept of due process as incorporated in the Fourteenth Amendment obligated the states to furnish counsel in every case,⁸ regardless of the circumstances of the defendant. There was wide criticism over *Betts v Brady*’s ability to provide equal protection of the laws to all individuals. The Supreme Court was not firmly devoted to the *Betts v Brady* decision. A plea for reconsideration stood a chance.⁹ Both inside

⁶ *Betts v Brady*, 316 U.S. 455 (1942).

⁷ U.S. Constitution, Amendment XIV, §2.

⁸ Lewis, 116.

⁹ *Ibid*, 29.

and outside the court system there was little critical support for the *Betts v Brady* decision.¹⁰ The standard had proven to be weak and it cast a cloud of uncertainty over any state conviction made without the benefit of counsel.¹¹

During the *Betts v Brady* decision there had been criticism as to whether the Fourteenth Amendment's promise of equal protection of the laws extended to other constitutional Amendments. This included the Sixth Amendment's promise of the right to have the assistance of counsel. Justice Black, who felt much freer than many of the other justices on the court to turn from past doctrine, stated for the first time publicly that he thought the Fourteenth Amendment had been intended to incorporate the Sixth Amendment. In fact, he concluded during the *Betts* trial that "no man should be deprived of counsel merely because of his poverty. Any other practice seems to me to defeat the promise of our democratic society to provide equal justice under the law."¹² Similarly, Erwin N. Griswold, Dean of Harvard Law School, also voiced his opinion in a lengthy letter to the *New York Times*, arguing that men around the world were hoping that a bill of rights would emerge which would guarantee to all men certain fundamental rights. He stated that most Americans before the *Betts v. Brady* decision would have assumed that the right of the accused to counsel in a serious criminal case was unquestionably a part of their bill of rights as offered by the United States Constitution.¹³ Both *Betts v Brady* and *Powell v Alabama* were influential precedents which *Gideon v Wainwright* referenced heavily.

¹⁰ William M. Beaney, "The Right to Counsel: Past, Present, and Future," *Virginia Law Review* 49, no. 6 (1963) 1154.

¹¹ Paul Freund, "Justice Was Done For One And All" (*New York Times*, June 21, 1964) BR1.

¹² *Betts v Brady*, 316 U.S. 455 (1942), 13.

¹³ Benjamin V. Cohen & Erwin N. Griswold, "Denial of Counsel to Indigent Defendant Questioned." (*New York Times*, August 2, 1942), E6.

Gideon v Wainwright

Gideon v Wainwright has enlarged the dimensions of individual liberty through the right to counsel. The issue that Clarence Earl Gideon presented in his petition for certiorari – the right to counsel – was an issue to which all of the Supreme Court justices were extremely familiar. Gideon’s story began on June 3, 1961. A burglary occurred at the Bay Harbor Pool Room in Panama City, Florida, where Clarence Earl Gideon was employed. The door was broken, the record machine was smashed and money was missing from the register. An eye witness reported later that day, that he had seen Gideon in the poolroom during the time the crime was committed, leaving with a bottle of wine in his hand. Gideon was then arrested and charged with breaking and entering with intent to commit a misdemeanor.¹⁴ Gideon was tried on August 4, 1961, in the circuit court of the Fourteenth Judicial Circuit of Florida. When Gideon was asked by the court if he was ready to go to trial with his case, Gideon stated before the court that he was not ready. He needed the court to appoint counsel for him. The court explained to Gideon that only in capital offences were they able to appoint counsel. Gideon was forced to act as his own counsel and he had to defend himself against his charge to prove his innocence. The jury returned a verdict of guilty and Gideon was sentenced to serve five years in the state prison.¹⁵

It was from his Florida State prison cell that he appealed his case to the United States Supreme Court. On January 8, 1962, the Supreme Court of the United States received Gideon’s envelope with a five page document entitled “Petition for a Writ of Certiorari Directed to the Supreme Court State of Florida.”¹⁶ Once the Supreme Court agreed to hear Gideon’s case the justices needed to appoint a competent lawyer. Abe Fortas of Washington, D.C, was chosen to

¹⁴ Lewis, 78.

¹⁵ *Gideon v Wainwright*, 153 U.S., 299, (1963).

¹⁶ Lewis, 7.

serve as Gideon’s counsel. Only certain lawyers are eligible to argue in front of the Supreme Court and Abe Fortas was considered a high-powered qualified lawyer. He was a friend to many of the Supreme Court justices including Justices Black, Brennan, and Douglas. He was also a friend to President Johnson who would later appoint Fortas to the Supreme Court. These friendship ties along with his outstanding credentials made Abe Fortas the perfect choice to represent Gideon.¹⁷ Bruce Robert Jacob, the assistant attorney general of Florida was to defend the decision set forth by *Betts v Brady*.¹⁸ It was originally the task of the attorney general of Florida, Richard W. Ervin, to argue the case. However, since Jacob did most of the brief writing, he was the one chosen to argue the case in front of the Supreme Court, and he was to bear the responsibility of the case from beginning to end. After constructing and arguing the case, on March 18, 1963, in *Gideon v Wainwright*, the Supreme Court overruled its decision in *Betts v Brady* and held that counsel should have been appointed for Gideon.¹⁹ Justice Black, who publicly criticized the older rule set forth by *Betts*, was assigned the role of opinion-writing in Gideon’s case.²⁰

Implications

Egalitarian System

Gideon v Wainwright provided a more egalitarian system of administering justice to Americans than had previously existed by making the poor less vulnerable and by eliminating ambiguities in the system that worked against the poor. *Gideon* added another step in the path of

¹⁷ Fred P. Graham, “The Fortas Liberalism,” (*New York Times*, June 22, 1966) 19.

¹⁸ Lewis, 147.

¹⁹ Beane, 1151.

²⁰ Freund, BR1

gaining a more genuinely fair system of administering criminal law in America.²¹ The Sixth Amendment of the Constitution states,

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial...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.²²

Historically, the arguments during the time of the *Betts* trial would go as far as concluding that even the Sixth Amendment did not compel the federal Government to provide counsel for indigent defendants in Federal prosecutions. The majority in the *Betts* trial considered that the defendant was not entitled to the protection of the Sixth Amendment. The Amendment did not through its specific terms apply to State courts.²³ Whether it was envisioned by the constitutional framers or not, the Sixth Amendment had reached the problem of an indigent defendant, who could not afford legal counsel and was thus not awarded the same protection of the laws as explained in the Fourteenth Amendment.

If defendants with means have the right to employ counsel to represent them when they are accused of a serious crime, it is difficult to maintain that indigent persons are in fact accorded the equal protection of the laws as stated in the Fourteenth Amendment, when that right is denied to them because they are not in possession of adequate funds to hire a lawyer. A concurring argument from a Maryland court during the time of the *Betts* trial stated, “Charges of small crimes tried before justices of the peace and capital charges tried in the higher courts would equally require the appointment of counsel.”²⁴ Each charge would equally require the assistance

²¹ Beane, 1150.

²² U.S. Constitution, Amendment VI.

²³ Cohen & Griswold, E6

²⁴ Ibid.

of counsel because of the complex nature of the court system. No individual no matter how intelligent can conduct his own defense without the aid of counsel. Counsel should be furnished to both the rich and the poor to uphold the Constitutional promise of equal protection of the laws to all. Equal protection of the laws should not vary depending on the charge against the defendant.

There has been no standard from the Supreme Court to hold that a person, indigent or not is entitled to counsel in every case, civil or criminal, without regard to its character or significance before *Gideon v Wainwright*. For example, had the Court adopted an approach like this, it may not have denied an indigent defendant the benefit of counsel in a case where he might, by that denial, be deprived of his liberty as Gideon was in the Circuit Court of Florida. Justice Black observed in his dissenting opinion for *Betts* that, “Whether a man is innocent cannot be determined from a trial in which, as here, denial of counsel has made it impossible to conclude with any satisfactory degree of certainty that the defendant’s case was adequately presented.”²⁵ Clarence Earl Gideon, without waiving his right to counsel, proceeded to try his own case as best as he could in front of the Circuit Court of Florida. It was altogether clear that a lawyer would have benefited Gideon. For example, the defendant had not made a single objection or pressed any of the favorable lines of an adequate defense as counsel would have provided.²⁶

Providing counsel to indigent defendants helps to remove ambiguities in the judicial system that worked to the detriment of the poor. Justice Black, who had spoken publicly about the *Betts v Brady* decision, made it known that the doctrine had worked against the needs of the

²⁵ *Betts v Brady*, 316 U.S. 455 (1942).

²⁶ Lewis, 65.

poor in the past. When Justice Black reviewed the *Gideon v. Wainwright* case he immediately noted the similarities between *Betts* and *Gideon*. He stated that if the *Betts v. Brady* decision was left standing then it would require the court to reject Gideon's claim. Justice Black stated in the court decision the absolute necessity of the assistance of counsel in order to obtain a fair trial in Gideon's case. Contrary to his prior statements, Justice Black had noted an obvious truth that, "government hires lawyers to prosecute and defendants who have money hire lawyers to defend."²⁷ This showed a strong indication that lawyers in the criminal courts were considered to be luxuries not necessities. However, lawyers are essential to protect the public's interest in an orderly society. Our government had not taken into consideration the defendants who do not possess the means to hire their own lawyers. The need for counsel is nowhere better stated than in Justice Sutherland's opinion in *Powell v. Alabama*, which was later used in the *Betts* decision and again referenced by Justice Black in *Gideon v. Wainwright*.

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 a 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.²⁸

From our nation's very beginning our state and national laws have laid great emphasis on safeguards designed to assure fair trials and equal protection for all. Although, this noble idea cannot be realized if the poor man charged with a crime has to face his accusers without the

²⁷ Jerold Israel, "Gideon v. Wainwright: The "Art" of overruling." *The Supreme Court Review*, (1963), 233.

²⁸ *Ibid.*

assistance of counsel.²⁹ This passage seemed to hold significance in the *Gideon* decision due to its hand in helping to establish the dire need of counsel to constitute a fair trial. By the ruling of the Circuit Court of Florida, Gideon, by reason of his poverty, was deprived of a right available to those who could afford to exercise it. Through the Supreme Court's ruling in *Gideon v Wainwright* the Court declared that the *Betts v Brady* decision was incorrectly decided³⁰ and unanimously overruled one of its own prior precedents, stating that Gideon should have had the assistance of counsel before the Circuit Court of Florida.

When deliberating the outcome of *Gideon*, several Justices were trying to remove ambiguities regarding counsel and possible discrimination against the poor. Justice Douglas joined by Justice Brennan wrote an opinion to the court calling flatly for the overruling of *Betts v Brady*. They stated,

Betts v Brady requires the indigent, when convicted in a trial where he has no counsel, to show that there was fundamental unfairness... This is a heavy burden to carry, especially for an accused who has no lawyer and cannot afford to hire one. It is a burden placed on an accused solely by reason of his poverty. Its only sanction is Betts v Brady, which is so at war with our concept of equal justice under law that it should be overruled.³¹

There is no aspect of the *Betts v Brady* decision that offered equal treatment of defendants in the court of law. *Betts v Brady* put a heavy burden on the accused to represent themselves. During the time of *Gideon*, defendants who had money could hire a lawyer and go to trial. It seemed that those who could not afford a lawyer were more likely to lack sufficient legal understanding to represent themselves in court, and had a higher chance of being convicted by lacking adequate

²⁹ Anthony Lewis, "Supreme Court Extends Ruling on Free Counsel," (New York Times, March 19, 1963), 3

³⁰ *Ibid*, 1.

³¹ Lewis, 121.

representation in their defense as *Gideon* had. By allowing representation of counsel in all cases permits the indigent an equal opportunity to have a fair trial in a court of law.

Providing a Clear Standard

The system before *Gideon* offered non-equal treatment of defendants with regard to the appointment of counsel. In *Betts v Brady*, a case in which the defendant's situation was similar to *Gideon*, the court announced an exclusive rule for non-capital state cases. The decision stated that counsel did not need to be appointed unless "the personal characteristics of the defendant, youth illiteracy, etc., or the complexity of the charge against him made a fair trial unlikely if he lacked the assistance of counsel."³² This rule came about after the decision set forth in *Powell* allowed defendants in capital trials to have the assistance of counsel. This relatively loose standard discriminated against some defendants based on the characteristics that constituted a fair trial according to *Betts v Brady*. Throughout the years that followed *Betts v Brady*, Justices Douglas and Black opposed the use of the fair trial rule in right to counsel and other state criminal cases. They held that the Bill of Rights should be held applicable to the states through the Fourteenth Amendment.³³

After the *Betts v Brady* decision in 1942, the Supreme Court had struggled to apply the fair trial rule. Only in special circumstances were poor criminal defendants entitled to free counsel. The age of the defendant, the complexity of his defense, the atmosphere of the courtroom all became circumstances to which the doctrine in *Betts* was applied. The administration of the standard proved to be uncertain.³⁴ It became more and more evident that in the process of finding exceptions to the *Betts* non-appointment rule, the Court was beginning to

³² Beane, 1152.

³³ *Ibid*, 1153.

³⁴ Freund, BR1.

destroy the rule itself.³⁵ Justice Harlan, in reviewing Gideon’s case, would have overruled *Betts* immediately on the ground that the rule of that particular case “was no longer a reality.”³⁶ It had been eaten away by exceptions. The formal rejection of *Betts* was necessary to clarify lower court appreciation of the actual state of the law.³⁷ In addition, *Betts v Brady* created friction between the state and federal courts, because it did not prescribe a precise standard for which the state courts could follow in regards to legal counsel. This led to a disparity between the defendants’ treatment before the court when asking to have counsel represent them. *Betts v Brady* was a critical point in history because it dangerously tilted the scale against safeguarding one of the most precious rights of Americans.³⁸

Gideon v Wainwright’s ability to provide an egalitarian system of administering justice, not only protected the poor, but allowed for the making of a clear standard for state courts to follow in regards to the right to legal counsel. Throughout our country’s history, one of the primary goals of our government has been the equal administration of criminal justice. There is a desire to protect the interests of those persons confronted with the judicial process.³⁹ By the Sixth Amendment the people of the United States intended that in all criminal prosecutions, the accused should enjoy the right “to have the assistance of counsel for his defense.” Up until *Gideon v Wainwright*, the Amendment laid down no rule for the conduct of the States. *Powell v Alabama* was the start of a historic advance for liberty in that it held “in a capital case where the defendant is unable to afford counsel, and is incapable of making his own defense because of illiteracy, feeble-mindedness or the like, it is then the duty of the court whether it is requested or

³⁵ Ibid.

³⁶ Anthony Lewis, “High Court Ruling Helps Poor Man to Freedom,” (*New York Times*, August 6, 1963) 21.

³⁷ Israel, 234.

³⁸ Cohen & Griswold, E6

³⁹ Barry Siegal, “Gideon and Beyond: Achieving an Adequate Defense for the Indigent.” *The Journal of Criminal Law, Criminology, and Police Science*, Vol. 59, no. 1, 73.

not, to appoint counsel for him as a requisite of due process of law.”⁴⁰ Even though *Powell v Alabama* established the right to counsel in capital cases, there was still a disparity between the federal courts and the state courts when it came to offering counsel to all defendants. There was a dire need for a clear standard of offering counsel in all state courts.

Gideon v Wainwright offered a clear standard for all state courts to follow. The Supreme Court decision of *Gideon v Wainwright* held that the Sixth Amendment guarantees the accused the right to the assistance of counsel in all criminal prosecutions. The Court held the requirement of federal courts to provide counsel for defendants who are unable to employ counsel unless their right was competently and intelligently waived. It held the Sixth Amendment’s guarantee of counsel one of the fundamental and essential rights made unavoidable upon the states by the Fourteenth Amendment.⁴¹ Before *Gideon*, there was only a clear standard that applied to capital cases and a standard that applied broadly to criminal prosecutions. As the late Justice Sutherland said, speaking for the court in *Powell v Alabama*:

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 reflects, if it does not establish, the inherent right to have counsel appointed, at least in cases like the present, and lends convincing support to the conclusion we have reached as to the fundamental nature of the right.⁴²

Powell v Alabama was a capital case, and intended to establish a standard for only capital cases.

Although, it is important to note that, in all but two states did the standard to which Justice Sutherland referred applied the protection of the law to not only persons accused of capital

⁴⁰ Lewis, 113.

⁴¹ Israel, 213.

⁴² *Powell v Alabama*, 287 U.S. 49 (1932).

offenses.⁴³ *Powell v Alabama* marked the beginning of a long road for the fight for the right to legal counsel, which *Gideon* extended. The impact which *Gideon* had on American society was huge in the terms of incorporating the Bill of Rights and asserting one of man's most influential rights within the judicial system. Finally allowing a standard for all state courts to follow evened the playing ground between rich and poor defendants before the court. *Gideon v Wainwright's* clear standard for state courts has helped to remove vulnerabilities and ambiguities that worked against the poor in the criminal justice system. *Gideon* has helped to further protect American society.

Wider Implications of Gideon

Gideon v Wainwright has allowed for future developments within the right to counsel to emerge. It is a landmark case within the fight for legal counsel as well as in the aspect of fair criminal procedure. Not only does past precedent, but also reason and reflection, require Americans to recognize that in our adversary system of criminal justice, any person brought into court who is too poor to hire a lawyer cannot be assured a fair trial in any matter.⁴⁴ *Gideon* was part of a movement of the law on the right to counsel. It showed one aspect of the fundamental change taking place in the constitutional doctrine of fair criminal procedure. *Gideon v Wainwright* has helped to enlarge the United States Supreme Court dimensions of individual liberty.⁴⁵

Gideon v Wainwright marks a significant step toward achieving a fair trial in all serious state criminal cases. Wider implications of *Gideon* included whether counsel would be required

⁴³ Israel, 234.

⁴⁴ Anthony J. Lewis, "Supreme Court Extends Ruling on Free Counsel" (*New York Times*, March 19, 1963) 1.

⁴⁵ Paul Freund, "Justice Was Done For One And All" (*New York Times*, June 21, 1964) BR1.

in misdemeanor cases which tend to carry penalties as high or even higher than some state felonies.⁴⁶ The Supreme Court in *Gideon* held that the denial of the appointment of counsel to an indigent defendant in a state court is a violation of due process.⁴⁷ In order for the federal waiver principle to be valid, a waiver must be a knowing and intelligent choice to proceed without the aid of counsel. The simple failure to request counsel would not be a sufficient waiver of the right to counsel.⁴⁸ A defendant cannot waive his right to counsel if he did not know he was entitled to it in the first place. *Gideon v. Wainwright* paved the way for other great Supreme Court cases such as *Miranda v. Arizona*. By declaring the right to counsel as fundamental, it extended the limits on individual liberty. The *Miranda v. Arizona* decision stated that statements made in response to an interrogation, by a suspect in police custody, would be admissible at trial if the defendant was not informed, and fully understood his rights given to him by the Constitution, including the right to an attorney.⁴⁹

In Florida, before the *Gideon* case, the right to counsel was held waived if not requested before the court. After *Gideon v. Wainwright*, since the constitutional right to have counsel appointed is now extended to all the states, the state waiver rules must meet the “fundamental fairness” principle of the due process clause in the United States Constitution.⁵⁰ Since the federal courts in cases coming under *Betts v. Brady* have applied federal standards of waiver, it may be argued that the extension of the right to counsel in *Gideon* would correspondingly extend the federal waiver structure to the states. The apparent intent of *Gideon* is that counsel must be

⁴⁶ Beaney, 1157.

⁴⁷ “Waiver of the Right to Counsel in State Court Cases: The Effect of *Gideon v. Wainwright*.” *The University of Chicago Law Review*, Vol. 31 (1964) 591.

⁴⁸ *Ibid*, 593.

⁴⁹ Gary L. Stuart, *Miranda: The Story of America’s Right to Remain Silent* (Arizona: The University of Arizona Press, 2004), 90.

⁵⁰ “Waiver of the Right to Counsel in State Court Cases,” 592.

made available to indigent defendants at all important stages of the criminal procedures. The entry of a plea is an act which itself would require counsel corresponding to the doctrine set forth by *Miranda v Arizona*. The un-counseled defendant may be unaware of valid defenses or that his constitutional rights were violated by the police. It could even be argued that a defendant would need a lawyer to be able to intelligently waive his or her right to have counsel appointed. *Gideon v Wainwright* broadens the scope to which the appointment of counsel can be influenced. By mandating the right to counsel in state courts it allows room for wider implications on the right to legal counsel to emerge.

Gideon v Wainwright has helped to remove vulnerabilities and ambiguities and pave the way for more liberty in the criminal justice system. It has done this through the process of providing an egalitarian system of administering justice, providing a clear standard on right to counsel procedures for state courts to follow, and by allowing room for future developments on the right to counsel to emerge. One of our country's primary goals of our government has been the equal administration of criminal justice and equal protection of the laws for all. The *Gideon v Wainwright* decision was a vital step in the fight for the right to legal counsel. By the Supreme Court unanimously ruling that all state courts are required to provide counsel in all criminal cases for defendants who are not able to afford counsel has enlarged the dimensions of individual liberty.

Before the *Gideon v Wainwright* decision, there was no standard handed down from the Supreme Court to hold that a person indigent or not was entitled to counsel in any court case. The *Betts v Brady* "special circumstances standard" proved to be a relatively loose standard discriminating against some defendants based on their age, the complexity of their defense, and

even the atmosphere of the courtroom coming into question. Many of the Supreme Court justices opposed the use of the fair trial rule in right to counsel cases and wanted to overrule the *Betts v Brady* doctrine immediately since it had been eaten away by exceptions. A man's innocence cannot be determined from a trial where the denial of counsel has made it impossible to conclude that the case was presented adequately. The ruling in *Gideon v Wainwright* has leveled the administration of criminal justice between both rich and poor defendants. Having an egalitarian system of administering justice not only safeguards against discrimination but promises the equal protection of the laws to all as stated in the due process clause of the United States Constitution.

Bibliography

Primary Sources

Betts v Brady, 316, U.S. 455 (1942): 1-14.

Bill of Rights. *The Charters of Freedom*. United States Constitution, Amendment XIV & Amendment VI http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html (accessed March 20, 2010).

Cohen, Benjamin V. & Erwin N. Griswold, “Denial of Counsel to Indigent Defendant Questioned.” (*New York Times*, August 2, 1942) E6.

Freund, Paul, “Justice Was Done For One And All,” (*New York Times*, June 21, 1964) BR1.

Gideon v Wainwright, 372, U.S. 355 (1963): 1-11.

Gideon v Wainwright, 153 U.S., 299, (1963): 1-3.

Graham, Fred. “The Fortas Liberalism,” (*New York Times*, June 22, 1966) 1-3.

Lewis, Anthony. “High Court Ruling Helps Poor Man to Freedom,” (*New York Times*, August 6, 1963).

Lewis, Anthony. “Supreme Court Extends Ruling on Free Counsel,” (*New York Times*, March 19, 1963) 1.

Powell v Alabama, 287 U.S. 51 (1932).

Secondary Sources

Beaney, William M. “The Right to Counsel: Past, Present, and Future.” *Virginia Law Review* 49, no. 6 (1963): 1150-1159.

Israel, Jerold H. “Gideon v. Wainwright: The “Art” of overruling.” *The Supreme Court Review*, Vol. 1963 (1963): 211-272. <http://www.jstor.org/stable/3108734> (accessed February 28, 2010).

Kamisar, Yale. “Betts v. Brady Twenty Years Later: The Right to Counsel and Due Process Values.” *Michigan Law Review* 61, no. 2 (1962): 219-282.

<http://www.jstor.org/stable/1286806> (accessed March 21, 2010).

Lewis, Anthony. *Gideon's Trumpet*. (New York: Random House, 1964) 1-277.

Siegal, Barry. "Gideon and Beyond: Achieving an Adequate Defense for the Indigent." *The Journal of Criminal Law, Criminology, and Political Science* 59, no. 1 (1968): 73-84.
<http://www.jstor.org/stable/1142152> (accessed February 28, 2010).

Stuart, Gary L. *Miranda: The Story of America's Right to Remain Silent* (Arizona: The University of Arizona Press, 2004).

"Waiver of the Right to Counsel in State Court cases: The Effect of Gideon v. Wainwright." *The University of Chicago Law Review* 31, no. 3 (1964): 591-602.
<http://www.jstor.org/stable/1598554> (accessed February 28, 2010).