

NACDL Talking Points: Gideon v. Wainwright

Note: These talking points are intended to be used with NACDL's talking points on indigent defense, which focus on the systemic barriers to meaningful implementation of the right to counsel.

Basic Case Information

- *Gideon v. Wainwright*, 372 U.S. 335 (1963)
- Argued in the United States Supreme Court on January 15, 1963; decided March 18, 1963
- Parties:
 - Petitioner/defendant: Clarence Earl Gideon, a poor Florida inmate who had been convicted of breaking and entering a Panama City poolroom on August 4, 1961
 - Respondent: Louie L. Wainwright, director of the Florida Division of Corrections
- Advocates:
 - Abe Fortas, a partner at the Washington, D.C. law firm Arnold Fortas & Porter, argued the case for the petitioner, Gideon
 - Bruce R. Jacob, a former Assistant Attorney General in Florida, argued the case for the respondent, Florida
 - J. Lee Rankin (by special leave of the court) argued for the American Civil Liberties Union as amici curiae, urging reversal
 - George D. Mentz, Assistant Attorney General of Alabama, argued for the State of Alabama, as amicus curiae, urging affirmance
- Members of the Supreme Court who heard Gideon's case: Byron R. White, William J. Brennan, Jr., Potter Stewart, Arthur J. Goldberg, Tom C. Clark, Hugo L. Black, Earl Warren, William O. Douglas, John M. Harlan

Facts of the Case

- Gideon was tried on August 4, 1961, by Judge Robert L. McCrary, Jr. His jury included six men.
- Gideon had been arrested for breaking and entering the Bay Harbor Poolroom and stealing change from the cigarette machine and some bottles of beer and wine.
- At the trial, Gideon, who could not afford to hire an attorney, asked Judge McCrary to appoint a lawyer to represent him. The court refused on the basis that under Florida law, the court could only appoint counsel in death penalty cases. The following is the exchange that took place:

The Court (Judge Robert L. McCrary, Jr.): The next case on the docket is the case of the State of Florida, Plaintiff, versus Clarence Earl Gideon, Defendant. What says the State, are you ready to go to trial in this case?

Mr. Harris (William E. Harris, Assistant State Attorney): The state is ready, your Honor.

The Court: What says the Defendant? Are you ready to go to trial?

The Defendant: I am not ready, your Honor.

The Court: Did you plead not guilty to this charge by reason of insanity?

The Defendant: No Sir.

The Court: Why aren't you ready?

The Defendant: I have no counsel.

The Court: Why do you not have counsel? Did you not know that your case was set for trial today?

The Defendant: Yes sir, I knew that it was set for trial today.

The Court: Why, then, did you not secure counsel and be prepared to go to trial?

The Defendant answered the Court's question, but spoke in such low tones that it was not audible.

The Court: Come closer up, Mr. Gideon, I can't understand you, I don't know what you said, and the Reporter didn't understand you either.

At this point the Defendant arose from his chair where he was seated at the Counsel Table and walked up and stood directly in front of the Bench, facing his Honor, Judge McCrary.

The Court: Now tell us what you said again, so we can understand you, please.

The Defendant: Your Honor, I said: I request this Court to appoint counsel to represent me in this trial.

The Court: 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 to appoint counsel to defend you in this case.

The Defendant: The United States Supreme Court says I am entitled to be represented by counsel.

The Court: Let the record show that the defendant has asked the court to appoint counsel to represent him in this trial and the court denied the request and informed the defendant that the only time the court could appoint counsel to represent a defendant was in cases where the defendant was charged with a capital offense. The defendant stated to the court that the United States Supreme Court said he was entitled to it.

- Gideon defended himself at trial. One example of damaging testimony came from the taxi driver who picked up Gideon at the pool hall on the night of the break-in. He quoted Gideon as saying, "Don't tell anyone you picked me up." Gideon, acting in his own defense, did not challenge this statement during the first trial.
- Gideon was convicted by a jury and sentenced to five years in prison.

Petition to the Florida Supreme Court

- The Florida Supreme Court rejected Gideon's *habeas corpus* petition without an opinion. Its order stated: "The above-named petitioner has filed a petition for writ of habeas corpus in the above cause, and upon consideration thereof, it is ordered that said petition be and the same is hereby denied." (*Habeas corpus*: an independent proceeding instituted to determine whether a defendant is being unlawfully deprived of his or her liberty.)

Petition to the United States Supreme Court

- From prison, Gideon filed a handwritten petition, *in forma pauperis*, to the United States Supreme Court. (*In forma pauperis*: permission given to a poor person to proceed in a case without being required to pay court costs or fees.)
- His Petition for a *writ of certiorari* to the Supreme Court State of Florida” asked the U.S. Supreme Court to hear his case and overrule his conviction on the basis that he was denied a fair trial because he did not have the assistance of counsel at his trial. (*Writ of certiorari*: the order of an appellate court declaring whether it will hear an appeal from a lower court; if the writ is denied, the appellate court refuses to hear the case; if the writ is granted, the appellate court agrees to hear the case and orders the lower court to send the case record to the higher court.)
- Question presented: Did the state court’s failure to appoint counsel for Gideon violate his right to a fair trial and due process of law as protected by the Sixth and Fourteenth Amendments?
- The Supreme Court appointed Abe Fortas, a highly-respected partner at the D.C. firm of Arnold Fortas & Porter, to argue Gideon’s case.
- Former Vice President Walter F. Mondale, then Attorney General of Minnesota, organized an *amicus* effort on behalf of Gideon. Twenty-three states signed onto the brief supporting the right to appointment of counsel.

The Court’s Decision

- In a unanimous opinion written by Justice Black, the Supreme Court reversed Gideon’s conviction and held that he had the right to a court-appointed lawyer at trial.
- The Court overruled its 1942 decision in *Betts v. Brady*, which had held that a refusal to appoint counsel for an indigent defendant charged with a felony did not necessarily violate due process.
- The Court found that the Sixth Amendment’s guarantee of counsel is a fundamental right, essential to a fair trial. (The Sixth Amendment to the U.S. Constitution states: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, *and to have the assistance of counsel for his defense.*”)
- Justice Black wrote, “[R]eason and reflection require us to recognize that in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth. . . . [L]awyers in criminal courts are necessities, not luxuries.”

Retrial

- Gideon was retried and acquitted on August 5, 1963.
- At his retrial, he was represented by a local attorney, Fred Turner. Turner demonstrated the importance of an experienced and competent lawyer. For example, in cross-examining the taxi driver who had given damaging testimony at the first trial, Turner questioned whether Gideon had ever asked the driver before to deny that he had picked him up. The taxi driver responded that Gideon said this every time the driver picked him up and suggested that it was because of a problem with his wife.

Significance

- *Gideon v. Wainwright*, and the right-to-counsel cases that followed, clearly articulated the crucial role of defense counsel in a fair justice system.
- Although the *Gideon* decision guaranteed appointed counsel to all accused persons facing imprisonment in the United States, many criminal defendants do not receive meaningful representation. Public defenders and court-appointed lawyers often lack the resources, training, and experience necessary to provide competent and meaningful representation. Many innocent people have spent years in prison for crimes they did not commit because they did not receive adequate representation at trial. (See NACDL Talking Points on Indigent Defense for more.)
- In a letter to Abe Fortas before the Supreme argument in his case, Gideon wrote: “I have no illusions about law and courts or the people who are involved in them. I have read the complete history of law ever since the Romans first started writing them down and before of the laws of religions. I believe that each new era finds an improvement in law each year brings something new for the benefit of mankind. Maybe this will be one of those small steps forward . . .”

Note: Gideon’s story was captured in a book called *Gideon’s Trumpet* by Anthony Lewis, and was eventually made into a movie starring Henry Fonda.

The information contained in these talking points was collected from the following sources:

Anthony Lewis, *Gideon’s Trumpet*
The Oyez Project at Northwestern University
Black’s Law Dictionary