



**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE**

Joel W. Solomon United States Courthouse
900 Georgia Avenue
Chattanooga, Tennessee 37402

**AN ESSENTIAL COURT FUNCTION:
BRINGING THE WORDS OF THE LAW TO LIFE**

Over the past months, we have discussed the federal judiciary’s fundamental functions in our American democracy. One of those functions is to articulate and interpret the law. As stated by Chief Justice John Marshall in the famous *Marbury v. Madison* decision, “It is emphatically the duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret the rule.” By articulating and interpreting the law, courts breathe life into the written words of the Constitution and statutes, making them a reality in our daily lives.

One example is the Supreme Court’s decision in *Gideon v. Wainwright*, issued fifty-eight years ago, on March 18, 1963. In it, the Supreme Court interpreted the Sixth Amendment, which states: “In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence.” The Supreme Court breathed life into these words by holding that the right to counsel is a fundamental right, essential to a fair trial, and must be guaranteed by the states as well as by the federal government.

Clarence Earl Gideon was charged with a state felony offense in Florida. Because it was a felony offense, he ran a risk of incarceration if he was convicted. Mr. Gideon could not afford an attorney to defend him. He asked the state judge to appoint a lawyer for him, but the judge denied the request because Florida allowed a free lawyer only when a defendant faced the death penalty. Florida’s law was consistent with an earlier decision by the Supreme Court, *Betts v. Brady*. In *Betts*, a divided Supreme Court had held that the Sixth Amendment’s right to counsel was not a fundamental right essential to a fair trial. This meant that the Sixth Amendment’s requirements did not extend to criminal trials in state courts.

Mr. Gideon represented himself at trial. According to the Supreme Court, he “conducted his defense about as well as could be expected from a layman.” He made an opening statement, cross-examined the prosecution’s witnesses, presented his own witnesses, and made a short argument of his innocence. Even so, Mr. Gideon was convicted and sentenced to five years in prison. From prison, Mr. Gideon petitioned the Supreme Court for relief, and the Supreme Court took the case.

In a landmark decision, the Supreme Court fulfilled its responsibility “to say what the law is.” The Court ruled for Mr. Gideon unanimously, holding that the states, as well as the federal government, must provide a lawyer for every criminal defendant who cannot afford to hire a lawyer and who

faces the prospect of incarceration. The Court recognized that the assistance of counsel “is one of the safeguards of the Sixth Amendment deemed necessary to insure fundamental human rights of life and liberty. . . . The Sixth Amendment stands as a constant admonition that, if the constitutional safeguards it provides be lost, justice will not still be done.” The Court thus held *Betts v. Brady* had been wrong in concluding that the right to counsel was not a fundamental one.

The Supreme Court gave this moving rationale from a prior opinion for the fundamental nature of the need to appoint counsel in felony cases:

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.

The Supreme Court in *Gideon* took the written words of the Sixth Amendment, “the accused shall enjoy the right . . .to have the Assistance of Counsel. . .,” and explained that a person facing the prospect of a prison sentence must have a free attorney if he or she cannot afford to hire one. As a result of this decision, persons charged with serious offenses are provided attorneys free of charge to assist in their defense, whether they are charged with federal crimes or with state crimes. Thus, in our country, indigent criminal defendants facing felony charges are not forced to go to trial without legal counsel. Instead, we recognize that effective legal assistance to all is critical to ensure fairness in our criminal prosecutions and our pursuit of justice.

Gideon is just one of many examples of the federal courts fulfilling their special function and role in our government, declaring what the law is and breathing life into the words of the Constitution.

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