Gideon v. Wainwright / Excerpts from the Majority Opinion

The following are excerpts from Justice Black's majority opinion:

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 14th 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 14th 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 14th. . . 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 14th 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 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 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.

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 14th 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?