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*You have the right to an Attorney. If you cannot afford an Attorney...*

The Supreme Court, the court of the nation consisting of the ultimate judges who assess “the law of the land,” known as the U.S. Constitution, has been around since its founding with the Constitution, being the only court written in the document. The Supreme Court may have seemed like one of the weakest branches immediately after its creation and yet after *Marbury v. Madison*, and other fateful court cases that would later be known as “landmark cases,” the Supreme Court found its true power: judicial review. The Supreme Court’s ability to assess the constitutionality of laws in America has done everything from deciding that separate is equal to eliminating misconceptions of interstate commerce. And while many people in today’s society consider the government as some intangible force that has absolute control and oppresses people and yet must solve everyone’s problems, the government has played a larger role in affecting the daily man than taking away people’s money with exorbitant taxes. The government at least impacts criminals, to say the least. Take Clarence Earl Gideon, the “experienced” hero/villain who saved future poverty struck defendants by standing in front of the Supreme Court for “the felony of breaking and entering with intent to commit petit larceny” (Jacob). The Supreme Court decision, *Gideon v. Wainwright*, would come to bring significant improvements to the world of poverty-struck crime as this unanimous ruling would not only overrule its predecessor of only 21 years, but help bring emphasis to the utility of attorneys in the courtroom and due process as a whole idea of equal fairness for the American people who were promised the rights given to

them by the Constitution and protected by the government that was made to serve and thus failed by their leaders.

If any case can be considered the origin of this issue at a greater scale, it is *Powell v. Alabama*, through its ideals that were supposed to be carried forward after incident, but rather failed as basis for improvement as shown in its neglect. This case followed nine African American boys who, in 1931, were arrested for getting into a fight with white men, resulting in one getting thrown off the train. The matter was so urgent that the “local sheriff and a group of citizens stopped the train before it reached the town of Scottsboro” (Powell). To add to the offense, the boys were also accused of sexually assaulting two white women who were a part of the original group of white people. The case was so outrageous at the time, as racism was on the rise leading towards segregation, that “Angry mobs gathered outside of the jail and the local sheriff had to call in the Alabama National Guard to restrain the demonstrators” (Powell). 6 days later, 8 out of the 9 Scottsboro Boys were sentenced to death, even though their charge of rape was unjustified due to a lack of evidence that the girls were raped after a medical examination. The boys appealed and got their voice across to the Supreme Court. The Supreme Court decided in favor of the boys, stating that “if in any case, civil or criminal, a state or federal court were arbitrarily to refuse to hear a party by counsel... it reasonably may not be doubted that such a refusal would be a denial of a hearing, and, therefore, of due process in the constitutional sense” (Powell). Racism tends to overrule the importance of this case when, while it does process the ideas of how a mentality can drive people to take advantage of others as a form of revenge, a system of protection must be established for every person involved. Even the court and police did not hesitate to mistreat these African American boys because they were the minority in this

case. If history has shown anything it is that, while the American people have a peculiar fondness for the “underdog” of any conflict, they are quick to ignore the actual minorities whose rights are threatened when they should already be implied in protection.

The *Betts v. Brady* Supreme Court case decision is the perfect example of political mistake and how no two situations are treated the same as this case brought a result that would later be unanimously rejected as one of the poorest mistakes in the history of the Supreme Court. In 1942, Smith Betts was arrested under the accusation of robbery by the state of Maryland. Betts was in a poor socio-economic standing and therefore did not have the funds to pay for an attorney. And so, Betts asked the court for counsel that would not be received. Considering it was fairly clear Betts was guilty, with sufficient evidence provided, “He was convicted and sentenced to eight years in prison” (Landmark). And yet, Betts eventually made his way to the Supreme Court, this time fighting for the possibility that the 6th Amendment’s guarantee to assistance to counsel would be enforced on the state courts as well. However, this case only resulted in the addition of “special circumstances” that could secure defendants counsel, forcing the court to provide counsel “if a defendant was young, inexperienced, illiterate, uneducated or had mental problems” (Jacob). Why special circumstances were produced from this case comes the mindset of the court that not providing counsel to a defendant “in one setting, [may] constitute a denial of fundamental fairness, shocking to the universal sense of justice, [while], in other circumstances, and in the light of other considerations, fall short of such denial” (Landmark). These special circumstances show a half-hearted compassion from the courts. The Supreme Court at this stage in time can already tell that there are situations in which due process may be neglected in terms of the court however in only trying to limit it to cases where obvious

aid is helped as is classified under the special circumstances criteria, the Supreme Court is openly avoiding discussing the full ramifications of not providing counsel to all. Gideon even faced other exceptions, such as cases of capital offense. However, due to the fact that a case 21 years prior seemed to show no intention of helping defendants like Betts, Gideon would not find any more sympathy than his predecessor.

Mr. Clarence Earl Gideon, with several jail sentences and felonies already in his record, was accused of having broken into and burglarizing the Bay Harbor Poolroom in Panama City, Florida on June 3rd, 1961. Mr. Gideon seemed like a reasonable culprit considering that a witness had seen him inside the building not too long before the burglary and he was living in a rooming house across the street at the time of the crime. Two months later and Clarence faced the Honorable Robert L. McCray Jr. in the Bay County circuit court. It was at the beginning of this case that the following conversation of delayed significance took place:

“The Defendant: Your Honor ... 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” (Looking). In a symmetrical fashion to Betts, Gideon was to be found guilty and sentenced to five years in prison. And yet Gideon was bound to fight against the injustice of economic discrimination in the courts. Gideon wrote a petition for a writ of certiorari while in prison and sent it to the Florida Supreme Court. The petition was denied. And so Gideon sought his last resort, sending his petition to the United States Supreme Court.

Mr. Gideon charged the Florida State Prison Director of the Division of Corrections, H.G. Cochran as a representative for the whole state of Florida to prepare for his attack on the government's limitations on something that most would deem required. However, Cochran soon stepped down after Gideon's case was taken. In his place, Louie Wainwright was placed in charge and therefore the one to stand against Gideon as a symbol for Gideon's disagreement with the state of Florida, particularly its court system. Abe Fortas, who was appointed in the case to represent Gideon, "had been the personal attorney to Lyndon Johnson and was a member of the prestigious Washington, D.C., firm Arnold, Fortas and Porter" (Jacob). The case began on January 15th, 1963. On March 18th, 1963, the case was decided. Gideon won, and with this victory came the results that would do more than add to the list of unanimously decided court cases.

The immediate impact that this decision had was to overrule *Betts v. Brady*. In overruling this case, there was the immediate objection of the decision and so as determined by the Supreme Court, the court cannot deny people counsel if they ask for it. *Betts v. Brady* distinguished circumstances that would allow exceptions to the idea of state courts not providing counsel to people. But the idea that special circumstances had to be established was only necessary because on a regular basis people could not have counsel. This rule only applied to the state courts because federal crimes, capital crimes always provided counsel for defendants since these issues usually had to do with major issues where lawyers were necessary to evaluate the situation and establish proper explanation to come to a thorough jurisdiction, like in Supreme Court decisions. However, in the objection of counsel to state courts comes a larger issue that had been fought for a long time as "Only 10 years before *Betts*, the Supreme Court began a 70-year process of

applying the Sixth Amendment's guarantee of "the assistance of counsel" to the states in *Powell v. Alabama*,<sup>3</sup> sometimes called the "Scottsboro Boys" case" (Looking). The Scottsboro Boys case blatantly showed how a minority can be misjudged so easily without proper reflection. There are hundreds if not thousands of cases that go through the courts everyday, especially when considering the rates of criminal activity in today's America. To believe that the Scottsboro Boys would have been left guilty if they were not given counsel who could defend and appeal for them shows the injustice of the morals of learning from history. The U.S. courts had failed to view *Betts v. Brady* as a reflection of the past and therefore treated it as a new circumstance as if it did not apply to the mindset of the 70 year plan to give more freedoms to the people, especially when they must protect themselves and the fate of their lives as proven through harsh punishments executed by the court system of America.

The *Betts vs. Brady* seemed to go backwards, not toward civil rights that were growing at the time. The difference between the two decisions cannot be easily explained with a straight answer as countless factors played a role in the difference between the two cases. One major difference was the transition of Supreme Court eras. *Betts vs. Brady* was decided in the Hughes Era, that was known for its conservative mentality that focused more on the growth of federal power, as shown in FDR's attempt at "court-packing" that did not end in his favor. Flash forward 21 years and the Supreme Court is in the Warren Era, under the control of chief justice Earl Warren. The Warren Court had a reputation of representing the citizens in their protection of civil rights and liberties to a point where the rest of the federal government feared that the court might change too much of America at one time. In that 21 year span, judges were swapped out consistently. And so, only Justice Black and Justice Douglas stayed on the Supreme Court in that

time, and both justices, “with Hugo Black authoring the dissent, in which Justices Douglas and Murphy joined” (Looking), disagreed with the *Betts vs. Brady* case decision. Justice Black, who wrote the official dissent of the court, believed that whether or not a man was innocent with “denial of counsel has made it impossible to conclude” (Looking). It was in these words of disapproval that the court had begun preparing a vengeance for civil freedoms as made logical by the equality and necessity of lawyers in the court system.

Another reason for the difference may have simply been a coincidental lack of resources. Bruce R. Jacob was 26 years old when Gideon’s case was being processed to the Supreme Court. Jacob was “in the criminal appeals section of the attorney general’s office, and the case was assigned to me” (Jacob). Bruce followed the case from the beginning and as he worked closely with the attorney general, he knew how state courts functioned, which allowed him to shed a certain light onto the case. This comes in Jacob’s own reasoning as to why Gideon was not given counsel and it simply boils down to the fact that “there were too few lawyers available for appointment in Bay County” (Jacob). Jacob continues by stating exact details of the area in which Gideon was arrested as “there were about 1,200 serious crimes committed in Bay County in 1961... [and] according to the 1960 edition of *Martindale-Hubbell*, Bay County had a population of 67,000, and only 34 licensed lawyers” (Jacob). The statistics show how the local court systems of the 1960s were clearly not capable of handling their populations of criminals and whether or not the federal government plays a role in the proportions of professional attorneys and areas of high mass crime activity is uncertain. It is highly probable, however that Gideon was not given a lawyer simply because there was none to provide or to find one that could actually take the case would simply be too difficult for such a petty crime, which only

emphasizes a lack of consideration for Gideon as a defendant because of his economic status and his crime. No matter the conditions of a human being, they should be treated equally and not be rushed through actions that could greatly determine their lives since Gideon was sentenced to five years in a Florida state prison without proper defense. What makes this situation even more absurd is the idea that “many Florida trial judges in other parts of the state were appointing counsel at least when a defendant pled not guilty in a felony case and wanted a jury trial, whether a special circumstance was present or not” (Jacob). In almost any other county in the state of Florida, Clarence E. Gideon could have been given counsel to conduct proper defense for his side and possibly solved his case from a local level, although it is not certain considering that whether or not Gideon actually committed the crime was never fully determined. This brings up the hypothetical question of how many other cases in America avoided moving up all the way to the Supreme Court just because they were provided counsel and had their cases settled fairly, even if they lost. The idea of neglect on the side of the government certainly points out a flaw in the mindset of the 1960s court system and this case highlights a particular example of injustice that could have easily been prevented and a right that needed to be set in stone by the opinion of the Supreme Court, the unanimous opinion.

Justice Black wrote the opinion of the court, emphasizing the views that he had held for the past two decades regarding the necessity of lawyers in the court system and how the government has done a severely poor job of protecting everyone over maintaining an advantage in criminal affairs. The Court came to a conclusion that “a provision of the Bill of Rights which is "fundamental and essential to a fair trial" (Gideon) is made obligatory upon the States by the Fourteenth Amendment.” The *Betts v. Brady* decision is therefore wrong because it does not



account for the 6th amendment in the 14th amendment's application of the Bill of Rights onto the federal and state system. Also from the standpoint of the use of lawyers, the idea "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" (Gideon). There can be no coincidence in the matter between those who desire lawyers and those who actually do use lawyers. If Gideon believed that he could freely defend himself in this case, as any defendant might feel confident in their capabilities to display their own innocence, then he would not have needed a lawyer. Law as a whole has always been considered a complex topic, whether in learning how to navigate or how to implement it in connection to others in coming to solutions, such as determining innocence or guilt. While capable people do exist, it cannot be simply presumed that Gideon would have enough mastery of the rules of law to protect himself easily as even people who are incredibly wealthy find difficulty in this process, and this class of people consists of the most educated in the country. Besides the logistics of defense, Justice Black explains the idea of how the Constitution has been failed to be implemented by its own rules into the matters of common man, especially in terms of due process.

Treatment of due process as a necessity to implement in entirety has caused major issues across U.S. history as liberties that seem natural are processed by the Supreme Court as what is best for representation of the country rather than a personal view of the people. Originally, the Court displayed a different mentality of due process in its *Betts v. Brady* decision in its idea of treating due process like "a concept less rigid and more fluid than those envisaged in other specific and particular provisions of the Bill of Rights." The *Betts v. Brady* decision believed

that to not appoint counsel was not sufficiently “‘offensive to the common and fundamental ideas of fairness’ as to amount to a denial of due process” (Gideon). However, *Powell v. Alabama* approached the issue from the standpoint of how the 14th Amendment properly secures the same rights to citizens on a state level as the Bill of Rights did on the federal level with the first 8 Amendments. *Powell v. Alabama* was more focused on the 6th Amendment’s interpretation from the national to the state level, looking at the “original Bill of Rights guarantees to decide whether the Fourteenth Amendment makes them obligatory on the States” (Gideon). In this case, federal issues are distinguished on a different scale as those of regular criminal penalty. The two types of cases are different in severity but do discuss similar issues. Originally, Gideon’s life was the only one at stake but as the case grew more severe, Gideon only became a symbol for the poor class of Americans who are forced to steal to live life, along with other survival-based issues. Gideon had gotten arrested before because of other cases that were most likely forced onto him due to his personal circumstances and *Betts* most likely has similar reasoning. *Gideon v. Wainwright* reflects the failures of the American government in considering all of its citizens equally.

Poverty has never been an issue of major care in the United States as the most basic consideration for middle to lower class Americans come from high unemployment rates and was only ever addressed when the economy failed. In a government run by the rich and mighty, it is clear that the lower classes that account for the high majority of Americans, is underrepresented.

Although, one victory does not imply success as issues arise even after the government had failed in securing equal protection for all through the idea of necessary of attorneys but no regulation on their quality. Through the victory in *Gideon v. Wainwright* a larger issue, the difference between standards of lawyers. Law firms can grow into highly reputable

establishments, with many lawyers who have worked tirelessly to support cases that may have seemed impossible to aid, yet done. These lawyers are celebrities of the court. However, not every lawyer belongs to a firm, in fact a lot of them actually work for the government. For an entire nation, one of the most crime-ridden in the world, lawyers are tools indispensable for dealing with the unlimited numbers of cases that they must see if another “Gideon” were to appear after the original Gideon’s victory in the Supreme Court. Before Gideon became the product of change in the American court system, he was simply a defendant accused of theft. There were simply not enough public lawyers to satisfy the needs of all of the counties that needed cases to be evaluated. And even after lawyers were made a necessity, their workload renders them on a similar scale to before considering the fact that they “handle as many as 100 to 200 cases at a time. As result of this caseload, public defenders are seriously overworked and underpaid compared to private attorneys” (Public). On the other hand, private attorneys have roughly half of that as “most private attorneys typically handle about 10 to 50 cases at a time” (Public). The difference in just cases reviewed alone is an outrageous number. In the same amount of time, double the cases when they reach past the hundreds mark simply put public attorneys at a major disadvantage as they need to work at a pace that is nowhere near as steady and efficient as a private lawyer. Therefore, while Gideon achieved a major accomplishment in changing the Supreme Court’s mind unanimously, the solution seems to lack fruition half a century later. However, in terms of absolute change, there remains one fact that overpowers that of quality. Even if a public lawyer is not as good as a private lawyer, there still remains the idea that a defendant is getting a lawyer at all, this was not true in the past. Even a poor quality lawyer remains much better than no lawyer, and to classify all public lawyers as poor quality is anything

but the truth, especially when cases do evolve in severity or are deemed federal cases as high quality lawyers are provided, like Abe Fortas, that can bring victory for their side, even if such a feat is deemed unlikely by earlier circumstances like the “special conditions” clause of the *Betts v. Brady* case decision.

*Gideon v. Wainwright* has certainly changed the United States and its views on equal protection. And while this case works specifically in terms of those who cannot afford private lawyers, its decision impacts all criminals. This is true specifically due to *Miranda v. Arizona* only 3 years later. In this case, Ernesto Miranda was arrested without being read his rights and therefore became a victim of self-incrimination that changed the outcome of his sentence. Therefore, after bringing it up to the Supreme Court victoriously, the Miranda Rights were established which include the fact that defendants have the right to a lawyer and if they cannot afford one, they will be given one. This comes directly from *Gideon v. Wainwright* which secured the right to all defendants. This connection is so important that if a police officer fails to read a criminal their Miranda Rights, the criminal was technically not arrested properly and therefore free to go, therefore sentencing them as innocent until sufficient reason for arrest is brought up again, an outcome that can be substantially different from what it would have been if the accused was arrested properly. These two cases deal greatly with differing outcomes as without their securities, defendants can receive sentences that do not properly correlate with how they should be treated. *Gideon v. Wainwright* will remain a symbol of the citizen’s indirect ability to check the government's neglect in terms of the law as well as depicting what is necessary and what is helpful in terms of providing justice in America, therefore allowing the case to reasonably keep its “landmark” title in Supreme Court history.

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