Gideon v. Wainwright

MR. JUSTICE BLACK delivered the opinion of the Court.

Petitioner was charged in a Florida state court with having broken and entered a poolroom with intent to commit a misdemeanor. This offense is a felony under Page 372 U. S. 337 Florida law. Appearing in court without funds and without a lawyer, petitioner asked the court to appoint counsel for him, whereupon the following colloquy took place:

"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."

Put to trial before a jury, Gideon conducted his defense about as well as could be expected from a layman. He made an opening statement to the jury, cross-examined the State's witnesses, presented witnesses in his own defense, declined to testify himself, and made a short argument "emphasizing his innocence to the charge contained in the Information filed in this case." The jury returned a verdict of guilty, and petitioner was sentenced to serve five years in the state prison. Later, petitioner filed in the Florida Supreme Court this habeas corpus petition attacking his conviction and sentence on the ground that the trial court's refusal to appoint counsel for him denied him rights "guaranteed by the Constitution and the Bill of Rights by the United States Government." [Footnote 1] Treating the petition for habeas corpus as properly before it, the State Supreme Court, "upon consideration thereof" but without an opinion, denied all relief. Since 1942, when *Betts v. Brady*, 316 U. S. 455, was decided by a divided Page 372 U. S. 338 Court, the problem of a defendant's federal constitutional right to counsel in a state court has been a continuing source of controversy and litigation in both state and federal courts. [Footnote 2] To give this problem another review here, we granted certiorari. 370 U.S. 908. 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*, 316 U. S. 455, be reconsidered?"

I

The facts upon which Betts claimed that he had been unconstitutionally denied the right to have counsel appointed to assist him are strikingly like the facts upon which Gideon here bases his federal constitutional claim. Betts was indicted for robbery in a Maryland state court. On arraignment, he told the trial judge of his lack of funds to hire a lawyer and asked the court to appoint one for him. Betts was advised that it was not the practice in that county to appoint counsel for indigent defendants except in murder and rape cases. He then pleaded not guilty, had witnesses summoned, cross-examined the State's witnesses, examined his own, and chose not to testify himself. He was found guilty by the judge, sitting without a jury, and sentenced to eight years in prison. Page 372 U. S. 339

Like Gideon, Betts sought release by habeas corpus, alleging that he had been denied the right to assistance of counsel in violation of the Fourteenth Amendment. Betts was denied any relief, and, on review, this Court affirmed. It was held that a refusal to appoint counsel for an indigent defendant charged with a felony did not necessarily violate the Due Process Clause of the Fourteenth Amendment, which, for reasons given, the Court deemed to be the only applicable federal constitutional provision. The Court said:

"Asserted denial [of due process] is to be tested by an appraisal of the totality of facts in a given case. That which may, in one setting, constitute a denial of fundamental fairness, shocking to the universal sense of justice, may, in other circumstances, and in the light of other considerations, fall short of such denial."

316 U.S. at 316 U. S. 462. Treating due process as "a concept less rigid and more fluid than those envisaged in other specific and particular provisions of the Bill of Rights," the Court held that refusal to appoint counsel under the particular facts and circumstances in the *Betts* case was not so "offensive to the common and fundamental ideas of fairness" as to amount to a denial of due process. Since the facts and circumstances of the two cases are so nearly indistinguishable, we think the *Betts v. Brady* holding, if left standing, would require us to reject Gideon's claim that the Constitution guarantees him the assistance of counsel. Upon full reconsideration, we conclude that *Betts v. Brady* should be overruled.

II

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 Page 372 U. S. 340 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. [Footnote 3] Betts argued that this right is extended to indigent defendants in state courts by the Fourteenth 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 Fourteenth Amendment."

316 U.S. at 316 U. S. 465. 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 . . . afforded by constitutional and statutory provisions subsisting in the colonies and the States prior to the inclusion of the Bill of Rights in the national Constitution, and in the constitutional, legislative, and judicial history of the States to the present date."

316 U.S. at 316 U. S. 465. On the basis of this historical data, the Court concluded that "appointment of counsel is not a fundamental right, essential to a fair trial." 316 U.S. at 316 U. S. 471. It was for this reason the *Betts* Court refused to accept the contention that the Sixth Amendment's guarantee of counsel for indigent federal defendants was extended to or, in the words of that Court, "made obligatory upon, the States by the Fourteenth Amendment." Plainly, had the Court concluded that appointment of counsel for an indigent criminal defendant was "a fundamental right, essential to a fair trial," it would have held that the Fourteenth Amendment

requires appointment of counsel in a state court, just as the Sixth Amendment requires in a federal court. Page 372 U. S. 341

We think the Court in *Betts* had ample precedent for acknowledging that those guarantees of the Bill of Rights which are fundamental safeguards of liberty immune from federal abridgment are equally protected against state invasion by the Due Process Clause of the Fourteenth Amendment. This same principle was recognized, explained, and applied in *Powell v. Alabama*, 287 U. S. 45 (1932), a case upholding the right of counsel, where the Court held that, despite sweeping language to the contrary in *Hurtado v. California*, 110 U. S. 516 (1884), the Fourteenth Amendment "embraced" those "*fundamental principles of liberty and justice which lie at the base of all our civil and political institutions,'" even though they had been "specifically dealt with in another part of the federal Constitution." 287 U.S. at 287 U. S. 67. In many cases other than Powell and Betts, this Court has looked to the fundamental nature of original Bill of Rights guarantees to decide whether the Fourteenth Amendment makes them obligatory on the States. Explicitly recognized to be of this "fundamental nature," and therefore made immune from state invasion by the Fourteenth, or some part of it, are the First Amendment's freedoms of speech, press, religion, assembly, association, and petition for redress of grievances. [Footnote 4] For the same reason, though not always in precisely the same terminology, the Court has made obligatory on the States the Fifth Amendment's command that Page 372 U. S. 342 private property shall not be taken for public use without just compensation, [Footnote 5] the Fourth Amendment's prohibition of unreasonable searches and seizures, [Footnote 6] and the Eighth's ban on cruel and unusual punishment. [Footnote 7] On the other hand, this Court in Palko v. Connecticut, 302 U. S. 319 (1937), refused to hold that the Fourteenth Amendment made the double jeopardy provision of the Fifth Amendment obligatory on the States. In so refusing, however, the Court, speaking through Mr. Justice Cardozo, was careful to emphasize that* "immunities that are valid as against the federal government by force of the specific pledges of particular amendments have been found to be implicit in the concept of ordered liberty, and thus, through the Fourteenth Amendment, become valid as against the states," and that guarantees "in their origin . . . effective against the federal government alone" had, by prior cases, "been taken over from the earlier articles of the federal bill of rights and brought within the Fourteenth Amendment by a process of absorption." 302 U.S. at 302 U. S. 324-326.

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 Fourteenth 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, after full consideration of all the historical data examined in *Betts*, had unequivocally declared that "the right to the aid of Page 372 U. S. 343 counsel is of this fundamental character." *Powell v. Alabama*, 287 U. S. 45, 287 U. S. 68 (1932). While the Court, at the close of its *Powell* opinion, did, by its language, as this Court frequently does, 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. Several years later, in 1936, the Court reemphasized what it had said about the fundamental nature of the right to counsel in this language:

"We concluded that certain fundamental rights, safeguarded by the first eight amendments against federal action, were also safeguarded against state action by the due process of law clause of the Fourteenth Amendment, and among them the fundamental right of the accused to the aid of counsel in a criminal prosecution."

Grosjean v. American Press Co., 297 U. S. 233, 297 U. S. 243-244 (1936). And again, in 1938, this Court said:

"[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.'"

Johnson v. Zerbst, 304 U. S. 458, 304 U. S. 462 (1938). To the same effect, *see Avery v. Alabama*, 308 U. S. 444 (1940), and *Smith v. O'Grady*, 312 U. S. 329 (1941). In light of these and many other prior decisions of this Court, it is not surprising that the *Betts* Court, when faced with the contention that "one charged with crime, who is unable to obtain counsel, must be furnished counsel by the State," conceded that "[e]xpressions in the opinions of this court lend color to the argument. . . ." 316 U.S. at 316 U. S. 462-463. The fact is that, in deciding as it did -- that "appointment of counsel is not a fundamental right, Page 372 U. S. 344 essential to a fair trial" -- the Court in *Betts v. Brady* made an abrupt break with its own well considered precedents. In returning to these old precedents, sounder, we believe, than the new, we but restore constitutional principles established to achieve a fair system of justice. 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, quite properly spend vast sums of money to establish machinery to try defendants accused of crime. Lawyers to prosecute are everywhere deemed essential to protect the public's interest in an orderly society. 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 right to be heard would be, in many cases, of little avail if it did not comprehend the right to be Page 372 U. S. 345 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."

287 U.S. at 287 U. S. 68-69. 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.

Reversed.

[Footnote 1]

Later, in the petition for habeas corpus, signed and apparently prepared by petitioner himself, he stated, "I, Clarence Earl Gideon, claim that I was denied the rights of the 4th, 5th and 14th amendments of the Bill of Rights."

[Footnote 2]

Of the many such cases to reach this Court, recent examples are *Carnley v. Cochran*, 369 U. S. 506 (1962); *Hudson v. North Carolina*, 363 U. S. 697 (1960); *Moore v. Michigan*, 355 U. S. 155 (1957). Illustrative cases in the state courts are *Artrip v. State*,136 So.2d 574 (Ct.App.Ala.1962); *Shafer v. Warden*, 211 Md. 635, 126 A.2d 573 (1956). For examples of commentary, *see*Allen, The Supreme Court, Federalism, and State Systems of Criminal Justice, 8 De Paul L.Rev. 213 (1959); Kamisar, The Right to Counsel and the Fourteenth Amendment: A Dialogue on "The Most Pervasive Right" of an Accused, 30 U. of Chi.L.Rev. 1 (1962); The Right to Counsel, 45 Minn.L.Rev. 693 (1961).

[Footnote 3]

Johnson v. Zerbst, 304 U. S. 458 (1938).

[Footnote 4]

E.g., Gitlow v. New York, 268 U. S. 652, 268 U. S. 666 (1925) (speech and press); *Lovell v. City of Griffin*, 303 U. S. 444, 303 U. S. 450 (1938) (speech and press); *Staub v. City of Baxley*, 355 U. S. 313, 355 U. S. 321 (1958) (speech); *Grosjean v. American Press Co.*, 297 U. S. 233, 297 U. S. 244 (1936) (press); *Cantwell v. Connecticut*, 310 U. S. 296, 310 U. S. 303 (1940) (religion); *De Jonge v. Oregon*, 299 U. S. 353, 299 U. S. 364 (1937) (assembly); *Shelton v. Tucker*, 364 U. S. 479, 364 U. S. 486, 488 (1960) (association); *Louisiana ex rel. Gremillion v.*

NAACP, 366 U. S. 293, 366 U. S. 296 (1961) (association); *Edwards v. South Carolina*,372 U. S. 229 (1963) (speech, assembly, petition for redress of grievances).

[Footnote 5]

E.g., Chicago, B. & Q. R. Co. v. Chicago, 166 U. S. 226, 166 U. S. 235-241 (1897); *Smyth v. Ames,* 169 U. S. 466, 169 U. S. 522-526 (1898).

[Footnote 6]

E.g., Wolf v. Colorado, 338 U. S. 25, 338 U. S. 27-28 (1949); *Elkins v. United States,* 364 U. S. 206, 364 U. S. 213 (1960); *Mapp v. Ohio,* 367 U. S. 643, 367 U. S. 655 (1961).

[Footnote 7]

Robinson v. California, 370 U. S. 660, 370 U. S. 666 (1962).