Gideon v. Wainwright (1963) Name:

Being Your Own Lawyer

If you had to represent yourself in court, would you know what to do? Would you be successful if the other side had a lawyer? In 1961, Clarence Earl Gideon was charged with breaking into a Florida pool hall and stealing some beverages and about $5 in cash. He could not afford a lawyer, so he asked the court to appoint one for him. The court refused. Under Florida law, only a person charged with a crime that could result in the death penalty could have a free, court-appointed lawyer.

Gideon defended himself in front of the jury. He examined witnesses and made legal arguments, but it wasn't enough. The jury found him guilty and sentenced him to five years in prison.

Mug shot of Clarence Earl Gideon.
Credit: State Archives of Florida

ISSUE
Is it constitutional for states to deny a lawyer to criminal defendants who can't afford one?
DECISION
No. A fair criminal trial requires that the defendant be given a lawyer.

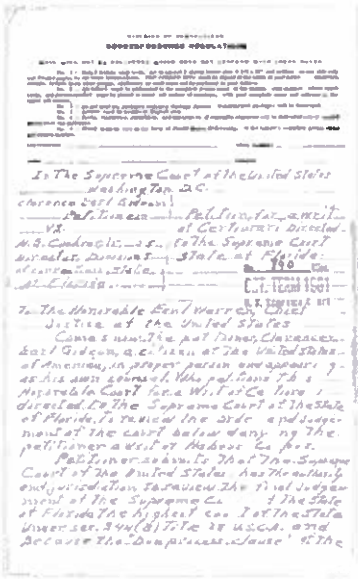
The Argument

While in prison, Gideon petitioned the U.S. Supreme Court about his case. He argued that the 6th Amendment to the U.S. Constitution guaranteed him the right to a lawyer. The 6th Amendment says that "in all criminal prosecutions, the accused shall enjoy the right . . . to have the assistance of counsel for his defense." The Supreme Court had already said that in federal courts, this meant people accused of a crime must be given a lawyer even if they can't afford one. Gideon argued the same thing should be true in state courts.

The Decision

The Supreme Court agreed. The Constitution is a federal document, which means that legally, the rights it contains only protect people when dealing with the federal government. The Court had already ruled that states do not need to give people those same rights unless the right is fundamental to a fair trial.

The Court now said the right to a lawyer is a fundamental right. A person cannot be assured of a fair trial without one. The Court wrote, "Even the intelligent and educated layman . . . lacks both the skill and knowledge adequately to prepare his defense," even if that person's defense would prove he or she is not guilty. People accused of a crime need a lawyer because they don't understand all the rules and procedures that take place during a trial.



Gideon's handwritten petition to the Supreme Court

States now have state-funded public defender offices

So What?

When the Supreme Court sent Gideon's case back to the lower court, Gideon received a lawyer and a new jury trial. This time, the lawyer presented evidence that proved Gideon was not guilty.

Because of this case, states must now provide a lawyer to criminal defendants who cannot afford one. **Public defenders** are lawyers employed by the state to represent these criminal defendants. Public defenders work to make sure people accused of a crime get a fair trial. Criminal defendants have certain rights under the Constitution, and public defenders make sure those rights are protected.

Gideon v. Wainwright (1963) Name: _____

But Doesn't the Constitution Say...? In 1833, the Supreme Court said the rights listed in the Bill of Rights in the Constitution only applied at the national (federal) level—not at the state level. One by one, over time, the Court has decided that certain rights do apply at the state level. Match the following rights with the cases that applied them to the state level:

- ☐ 1st Amendment — Freedom of the Press
- ☐ 1st Amendment — Freedom of Speech
- ☐ 2nd Amendment — Right to Bear Arms
- ☐ 4th Amendment — Right Against Unreasonable Search & Seizure
- ☐ 5th Amendment — Right Not to be Tried Twice for the Same Crime (Double Jeopardy)
- ☐ 6th Amendment — Right to a Speedy Trial
- ☐ 6th Amendment — Right to a Public Trial

A) **Near v. Minnesota** (1931)

Minnesota passed a law saying scandalous newspapers could be shut down. J.M. Near published a paper that was shut down for running stories about police corruption.

B) **In re Oliver** (1948)

A Michigan judge investigated a crime by calling in witnesses to testify in secret. Oliver testified, but the judge didn't believe him. Still acting in secret, the judge punished Oliver by sentencing him to 60 days in jail.

C) **McDonald v. Chicago** (2010)

The City of Chicago passed a law banning all handguns. McDonald and others could no longer keep handguns in their homes.

D) **Klopfer v. North Carolina** (1967)

Mr. Klopfer was charged with criminal trespass. After a mistrial, his case was put on hold indefinitely, but could be reopened at any time.

E) **Benton v. Maryland** (1969)

At trial, John Benton was found guilty of burglary but innocent of larceny. But the jurors had been chosen unconstitutionally, so he was offered a second trial. He was again charged with both burglary and larceny.

F) **Mapp v. Ohio** (1961)

Police forced their way into Dollree Mapp's house looking for a fugitive. They didn't find the fugitive, but they did find a box of inappropriate books and photos. They took it and used it to convict Mapp of possessing obscene material.

G) **Gitlow v. New York** (1925)

Benjamin Gitlow had been convicted of a crime in New York for distributing pamphlets about his extreme political beliefs.

Now add Gideon's case:

_____ Amendment

Right to _____

_____

_____ v. _____ (_____)

Clarence Gideon _____

_____

_____

_____

Miranda v. Arizona (1966)

Name: _____

You Have the Right to Remain Silent...

Ernesto Miranda was arrested for a violent crime in Phoenix, Arizona and was taken to a police station for questioning. Officers put him into an interrogation room, where they questioned him for two hours. They came out with a written confession Miranda had signed. The confession form included a typed paragraph saying the confession had been made voluntarily. The typed paragraph said Miranda had signed the confession "with full knowledge of my legal rights, understanding any statement I make may be used against me." Miranda's confession was used against him in court, and he was convicted of a serious crime.

ISSUE
Do the police need to inform a suspect of his 5th and 6th Amendment rights in order to use the suspect's confession at the trial?
DECISION
Yes, because this will prevent police from illegally forcing confessions from people.

The Argument

The 5th Amendment to the U.S. Constitution says that a person involved in a criminal case cannot be forced to be a witness against himself. In other words, only statements that are made voluntarily may be used. Miranda argued that his confession was not voluntary because he had not been told about his right to remain silent. He was also not told about his right to a lawyer under the 6th Amendment, so a lawyer was not present during the questioning. For these reasons, Miranda argued that his confession should not have been used in court.

The Decision

The Supreme Court agreed. It said that the 5th Amendment right to remain silent is so basic that it doesn't even matter if a person already knows about this right—the right is not safeguarded unless officers tell people about it before interrogation begins. The Court said this is especially true because the interrogation techniques used by law enforcement officers can be very intimidating.

The Court also said police must inform suspects of the right to have a lawyer present during the questioning. Technically, the right to a lawyer is a 6th Amendment right. But the Court said that a lawyer is absolutely necessary to protect a suspect's 5th Amendment right not to testify against himself or herself. That's because a lawyer can advise a suspect about what to say and what not to say during the questioning. Because Miranda's 5th Amendment right was violated, the Court reversed his conviction.

Chief Justice Earl Warren wrote the opinion for Miranda's case.

MIRANDA WARNING

1. YOU HAVE THE RIGHT TO REMAIN SILENT.
2. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.
3. YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED
4. IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF YOU WISH.
5. YOU CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND NOT ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS

WAIVER

DO YOU UNDERSTAND EACH OF THESE RIGHTS I HAVE EXPLAINED TO YOU? AVING THESE RIGHTS IN MIND DO YOU WISH TO TALK TO US NOW?

So What?

The famous "Miranda warning" you hear on detective shows (and that officers recite in real life) came from this case. Now, if officers question you without reading your rights first, nothing you say during the questioning can be used against you in court. (Failing to read your rights does *not* mean your case will be automatically dismissed.) As for Miranda, he was put on trial a second time and convicted even without his confession.

Miranda v. Arizona (1966)

Name: _____

A. Why Must They Say That? The Miranda warning has several parts. The Supreme Court had many good reasons for requiring all these warnings. Read the list of reasons below. Decide which part of the warning each reason explains. Write the number of the warning next to each reason that explains it.

MIRANDA WARNING

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. You have the right to talk to a lawyer and to have a lawyer present with you while you are being questioned.
4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish.
5. You can decide at any time to exercise these rights and not answer any questions or make any statements.

This part of the Miranda warning is important because...

↓

____ When seeking justice, officers must not take advantage of the fact that someone has a low income.

____ Some people might not know they have the right not to speak to the authorities.

____ Having a lawyer present during questioning helps protect a person's 5th Amendment right to remain silent.

____ A person needs to understand not just the basic right, but also the consequences of not exercising that right.

____ If at any point the person says they don't want to talk, any statement taken after that must have been forced.

____ Being reminded of this basic right makes a person less likely to give up their right if investigators make it seem like silence proves the person is guilty.

____ Someone could think the right to talk to a lawyer means only if you can afford to hire one.

____ It helps people realize the questioning is a stage of the legal system and officers are not on their side.

____ A lawyer can help make sure any statements made to law enforcement are accurately reported during a trial.

____ Telling someone the basic right up front lets the person know authorities recognize the right exists.

B. Justice at Any Cost? The Supreme Court quoted Viscount Sankey, Lord Chancellor of England from 1929 -1935, for the idea that it's not okay to get justice for a crime by committing a wrong act.

John Sankey, 1st Viscount Sankey

It is not admissible to do a great right by doing a little wrong. It is not sufficient to do justice by obtaining a proper result by irregular or improper means.

Do you agree with Lord Sankey and the Supreme Court?

○ Yes ○ No

Write 2 sentences explaining your opinion:

1. _____

_____

_____

2. _____

_____

_____

Plessy v. Ferguson (1896)

Name: _____

Breaking the Rules

The railroad Plessy took. Courtesy nps.gov

You may have heard the saying, "Some rules are meant to be broken." In 1890, a man named Homer Plessy broke the rules. The state of Louisiana had passed the **Separate Car Act**, which required railway companies to have "separate but equal" train cars for black people and white people. A person who sat in the wrong car had to pay a $25 fine or go to jail for 20 days.

You can probably guess that the cars for blacks weren't as nice as the cars for whites. Not only that, it seemed unfair to make black people sit separately. A group of citizens called the "Free People of Color in New Orleans" formed a committee dedicated to repealing this law. They convinced Homer Plessy, who was 7/8 white and 1/8 black, to test the law by sitting in a whites-only train car. When Plessy was asked to move, he refused and was arrested.

ISSUE
Is it constitutional to make black people sit in a separate train car from white people?
DECISION
Yes, because the Constitution only protects legal equality, not social equality.

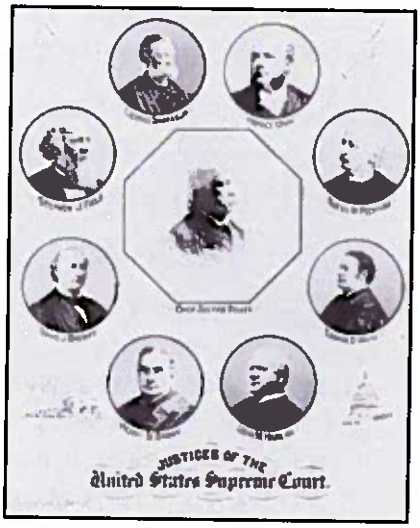
The Argument

Plessy argued that Louisiana's Separate Car Act violated the **14th Amendment** to the U.S. Constitution. It says that states may not "deny to any person within their jurisdiction the equal protection of the laws." He argued that requiring black people to sit separately from white people implied that blacks were inferior to whites, and therefore unequal.

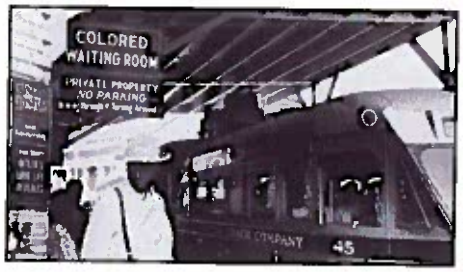
The Decision

The Supreme Court disagreed. It saw separate train cars as an issue of social equality, not political or legal equality. It said separating the races did not take away civil or political rights. Justice Brown wrote for the Court, saying that "if one race be inferior to the other socially, the constitution of the United States cannot put them upon the same plane." Justice Brown said there had been separate schools for black and white students for a very long time, and many court cases had decided that states were allowed to have these **segregated** schools.

Out of the nine justices, Justice Harlan was the only one to dissent, or disagree. He wrote that "our constitution is color-blind" and does not tolerate "classes among citizens." He said the Court's decision would lead to racial hatred and increased attacks against black peoples' rights.



U.S. Supreme Court, 1896



So What?

The Court's decision set the stage for many more years of discrimination against people of color. Plessy's case gave rise to a new doctrine: "separate but equal." States were free to pass laws that kept races separate, and although the facilities were supposed to be equal, they rarely were. The "separate but equal" doctrine would not be abolished until the Civil Rights Act of 1964.

Plessy v. Ferguson (1896)

Name: _____

A. Long Time Coming... It took 58 more years for the Supreme Court to finally reject the idea of "separate but equal." In 1954, the Court rejected this doctrine in a case called *Brown v. Board of Education of Topeka*, in which parents fought against "separate but equal" schools. (However, that case only applied to schools—not trains, buses, or other facilities.)

How did the Court's reasoning change? Read the following statements and decide whether they are from the Plessy decision (supporting separate but equal) or the Brown decision (rejecting separate but equal). Mark each statement **PL** for Plessy or **BR** for Brown.

____ 1. The 14th Amendment could not have been intended to abolish differences based on color.

____ 2. The impact of separating people just because of race is even bigger when the law says it's okay.

____ 3. Laws that allow or require the races to be separate do not necessarily imply that one race is inferior.

____ 4. Just because racial segregation existed when the 14th Amendment was adopted in 1868 doesn't mean it is constitutional.

____ 5. Separate educational facilities are naturally unequal.

____ 6. State governments have the power to decide whether to keep the races separate.

____ 7. Children and adults can be treated differently under the law, so *equality under the law* doesn't mean blacks and whites must be treated exactly the same.

____ 8. Making facilities equal isn't enough as long as blacks and whites are still are separated.

____ 9. The 14th Amendment could not have been intended to force the two races to mingle together when they don't want to.

____ 10. Research shows that separating white and black children just because of their race makes black children feel like they are inferior.

____ 11. If requiring blacks and whites to be separate suggests that blacks are inferior, it is only because black people choose to see it that way.

____ 12. Laws cannot change social prejudices.

____ 13. Blacks and whites can only have social equality by appreciating each other and choosing to be together.

____ 14. Separating the races in school makes them unequal under the law and violates the 14th Amendment.

B. What Would the *Brown* Court Say About Plessy? The *Brown* court based a lot of its reasoning on the importance of education. The *Brown* court said this:

- A good education is necessary for learning to function in society and for succeeding in life.
- Therefore, if black children were separated out and felt inferior, it could affect their entire lives.

Do you think the Brown court would have said that people could be separated by race on a train? ○ Yes ○ No

Based on your answer, imagine one argument the Brown court might have made for or against Plessy.
Write it here:

Brown v. Board of Education (1954) Name:

Different Races, Different Schools

In 1950 and 1951, black parents and students in several states got tired of laws that required children of color to attend separate schools from white children. For decades, many states had kept blacks and whites **segregated**, or separated from each other based on their race. In 1896 in a case called *Plessy v. Ferguson*, the Supreme Court had said this segregation was constitutional as long as the separate facilities for blacks and whites were equal.

In some places, schools for black children were run-down and lacked things like gyms or cafeterias. In many places, there were school buses for whites but not for blacks. Parents had to send their kids across town to school when there were schools right in their own neighborhoods. But the closer schools were for whites only.

Parents and kids protest segregation

With the help of the National Association for the Advancement of Colored People (NAACP), parents and students decided to challenge the *Plessy* decision. In Topeka, Kansas, Oliver Brown and several other parents tried to enroll their children in the closer, whites-only schools. They were rejected. In the other states, peoples' efforts to get better facilities for black school were ignored.

ISSUE
Is it constitutional to make children of color attend different schools from white children, even if the school facilities are equal?
DECISION
No, because segregation sends a message that children of color are inferior.

The Argument

Brown and the others argued that segregated public schools are not "equal" and cannot be made equal because keeping black and white students separate sends a message that the black students are inferior. Therefore, the very act of separating black and white students violates the **14th Amendment** to the U.S. Constitution, which guarantees equal protection of the laws.

The Decision

The Supreme Court agreed. In a complete reversal from its decision in the *Plessy* case, the Court said that the "separate but equal" doctrine "has no place" in public education. Separating children just because of race "generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone." Segregation therefore deprived black students of equal protection of the laws under the 14th Amendment.

Governor Wallace makes his stand in the door of the University of Alabama.

So What?

The court's decision rejected the "separate but equal" doctrine the court had approved 58 years earlier in *Plessy v. Ferguson*. Now, all-white schools could no longer reject black students. Although the Court's decision was aimed at K-12 public schools, the decision was also applied to colleges and universities. But not everyone was happy with the decision in *Brown*. In 1963, Alabama governor George Wallace spoke out against letting black students attend the University of Alabama. He stood in the doorway to block two black students from being able to register. The conflict ended when President Kennedy ordered the Alabama National Guard to the scene.

The Murder of Emmett Till

"Have you ever sent a loved son on vacation and had him returned to you in a pine box, so horribly battered and water logged that someone needs to tell you this sickening sight is your son--- lynched?" – Mamie, Bradley, mother of Emmett Till

Emmett Till was born on July 25th, 1941, and brutally murdered at the age of just 14 on August 28th, 1955. Emmett's alleged crime was to whistle at a white woman and call her "baby". For this "crime", Emmett was beaten and had an eye gouged out, he was then shot through the head and thrown into the Tallahatchie River, with a 70 pound weight tied to his body with barbed wire. His body was in the river for three days before it was discovered and pulled out by two fishermen.

Emmett was raised in Chicago, Illinois, a Northern city in America. Although there was still strong racism against black people in the north, there was much more limited segregation and the KKK was not a strong influence. There was not the same vicious, unchecked persecution of black people that there was in Southern states. In 1955, Emmett was sent to stay with his uncle Moses, who lived in Money, Mississippi, a small town. Before he left for Mississippi, his mother, Mamie Bradley, warned him that life was very different than in Chicago. She said to avoid white people because, although he was able to speak fairly freely to white people in Chicago, Mississippi was still segregated.

Emmett got to Mississippi on August 21st, 1955, and on the 24th, he went to Bryant's, the local shop, with some of the boys who lived near his uncle's that he had made friends with. The shop was owned by a white family. Emmett had allegedly been telling the boys that in Chicago, he could chat up white girls. The boys did not believe him and once in the shop, they dared him to flirt with Carolyn Bryant, who was the 21 year old wife of the store owner. It was not clear what happened next. Some of the boys said Emmett wolf-whistled at Carolyn; others said he only said "Bye Baby" as he left the store. At first the boys were worried, but Emmett did not understand the danger he had put himself in and thought the matter would blow over.

Carolyn Bryant began telling people what had happened at the shop, and the story spread quickly. When Carolyn's husband Roy Bryant was told about the incident, he was furious. Carolyn exaggerated the story, saying that Emmett had grabbed her around the waist, and asked her for a date. She also said that he used "unprintable" words. None of the this was true, but Roy Bryant decided that he and his half-brother, JW Milam, would "teach the boy a lesson." A few days later, the two men went to the cabin of Emmett's uncle Moses, in the middle of the night. Bryant and Milam grabbed a terrified Emmett and drove off with him. Three days later, Emmett Till's body was found in the Tallahatchie River. He had been so badly beaten that the corpse was nearly unrecognizable; his uncle Moses could only positively identify the body as Emmett's because of an initialed ring that Emmett wore.

Bryant and Milam were arrested for kidnapping and the Emmett Till case quickly attracted national attention. Mamie Bradley, Emmett's mother, had his body shipped back to Chicago. When it arrived, she insisted on an open-casket funeral, so that "all the world [could] see what they did to my son." Over four days, thousands of people saw Emmett's body. Many more black people across the country were shocked by pictures of Emmett, which appeared in 'Jet' Magazine. These pictures moved black people in a way that nothing else had. Preachers in black churches stood in their pulpits to tell Emmett's story and demand action, saying that "something be done in Mississippi now." Whites in Mississippi resented the Northern criticism of southern segregation. Five prominent lawyers stepped forward to defend Milam

and Roy Bryant, and the two men went on trial in a segregated courthouse in Sumner, Mississippi, on September 19th, 1955, before an all-white, male jury.

The prosecution had trouble finding witnesses willing to testify in court, because at that time in Mississippi, it was unheard of for a black person to publicly accuse a white person of committing a crime. Finally, Emmett's sixty-four year old uncle Moses stepped forward. He identified Milam and Roy Bryant as the men who had taken Emmett away. Moses Wright's bravery encouraged other black people in the town to testify as well. However, even with witnesses, it did not make a difference. The all-white jury returned a "not guilty" verdict and Milam and Roy Bryant went free.

However, the case of Emmett Till had a big impact. Northerners realized that the violence against black people in the South could affect Northerners too. Mamie Bradley said, "Two months ago, I had a nice apartment in Chicago. I had a good job. I had a son. When something happened to the black people in the South, I said, "That their business, not mine." Now I know different. The murder of my son has shown me that what happens to any of us, anywhere, had better be the business of us all." Emmett was one of a long line of black people murdered in the Southern states, but his young age finally pushed people in the North and South start fighting for Civil Rights.

In 2008, Carolyn Bryant Donham was interviewed by Timothy Tyson, a professor at Duke University, who wrote "The Blood of Emmett Till". She had testified that "that Emmett had grabbed her hand, she pulled away, and he followed her behind the counter, clasped her waist, and, using vulgar language, told her that he had been with white women before." She told Tyson in the interview that "that part wasn't true". Bryant and Milam were interview by *Look* Magazine in 1956 and openly admitted what they had done to the teen from Chicago.

Please respond the following questions on a separate sheet of paper in full sentences. Be sure to answer all parts of the question.

1. Why were Emmett's roots in Chicago so important to his story being told?
2. Should Carolyn Bryant Donham, Roy Bryant, and JW Milam have been punished later when their role was more clearly understood? Why do you think they escaped punishment, both initially and later on after they had made further comments?
3. Mamie Bradley said, "...The murder of my son has shown me that what happen to any of us, anywhere, had better be the business of us all." Do you agree with her? Why/why not?
4. What is the legacy of the Emmett Till case? Do you see echoes of the Till case today?