litigant and the third parties through the criminal process and when litigation by the third parties is in all practicable terms impossible.[452]

Following *Wulff*, the Court, emphasizing the closeness of the attorney-client relationship, held that a lawyer had standing to assert his client's Sixth Amendment right to counsel in challenging application of a drug-forfeiture law to deprive the client of the means of paying counsel.[453] However, a "next friend" whose stake in the outcome is only speculative must establish that the real party in interest is unable to litigate his own cause because of mental incapacity, lack of access to courts, or other disability.[454]

A variant of the general rule is that one may not assert the unconstitutionality of a statute in other respects when the statute is constitutional as to him.[455] Again, the exceptions may be more important than the rule. Thus, an overly broad statute, especially one that regulates speech and press, may be considered on its face rather than as applied, and a defendant to whom the statute constitutionally applies may thereby be enabled to assert its unconstitutionality.[456]

Legal challenges based upon the allocation of governmental authority under the Constitution, *e.g.*, separation of powers and federalism, are generally based on a showing of injury to the disadvantaged governmental institution. The prohibition on litigating the injuries of others, however, does not appear to bar individuals from bringing these suits. For instance, injured private parties routinely

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[452] *Compare* 428 U.S. at 112–18 (Justices Blackmun, Brennan, White, and Marshall), *with* id. at 123–31 (Justices Powell, Stewart, and Rehnquist, and Chief Justice Burger). Justice Stevens concurred with the former four Justices on narrower grounds limited to this case.

[453] Caplin & Drysdale v. United States, 491 U.S. 617, 623–624 n.3 (1989). *Caplin & Drysdale* was distinguished in Kowalski v. Tesmer, 543 U.S. 123, 131 (2004), the Court's finding that attorneys seeking to represent hypothetical indigent clients in challenging procedures for appointing appellate counsel had "no relationship at all" with such potential clients, let alone a "close" relationship.

[454] Whitmore v. Arkansas, 495 U.S. 149 (1990) (death row inmate's challenge to death penalty imposed on a fellow inmate who knowingly, intelligently, and voluntarily chose not to appeal cannot be pursued).

[455] United States v. Raines, 362 U.S. 17, 21–24 (1960).

[456] Lanzetta v. New Jersey, 306 U.S. 451 (1939); Thornhill v. Alabama, 310 U.S. 88 (1940); Winters v. New York, 333 U.S. 507 (1948); Dombrowski v. Pfister, 380 U.S. 479, 486–487 (1965); Gooding v. Wilson, 405 U.S. 518 (1972); Lewis v. City of New Orleans, 415 U.S. 130 (1974). The Court has narrowed its overbreadth doctrine, though not consistently, in recent years. Broadrick v. Oklahoma, 413 U.S. 601 (1973); Young v. American Mini Theatres, 427 U.S. 50, 59–60 (1976), and id. at 73 (Justice Powell concurring); New York v. Ferber, 458 U.S. 747, 771–773 (1982). But the exception as stated in the text remains strong. *E.g.*, Secretary of State v. Joseph H. Munson Co., 467 U.S. 947 (1984); Virginia v. American Booksellers Ass'n, 484 U.S. 383 (1988).