volved and finally in *Hamilton v. Alabama*,[275] held that in a capital case a defendant need make no showing of particularized need or of prejudice resulting from absence of counsel; henceforth, assistance of counsel was a constitutional requisite in capital cases. In non-capital cases, developments were such that Justice Harlan could assert that "the 'special circumstances' rule has continued to exist in form while its substance has been substantially and steadily eroded."[276] The rule was designed to afford some certainty in the determination of when failure to appoint counsel would result in a trial lacking in "fundamental fairness." Generally, the Court developed three categories of prejudicial factors, often overlapping in individual cases, which required the furnishing of assistance of counsel. There were (1) the personal characteristics of the defendant which made it unlikely he could obtain an adequate defense of his own,[277] (2) the technical complexity of the charges or of possible defenses to the charges,[278] and (3) events occurring at trial that raised problems of prejudice.[279] The last characteristic especially had been used by the Court to set aside convictions occurring in the absence of coun-

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[275] 368 U.S. 52 (1961). Earlier cases employing the "special circumstances" language were Williams v. Kaiser, 323 U.S. 471 (1945); Tompkins v. Missouri, 323 U.S. 485 (1945); Hawk v. Olson, 326 U.S. 271 (1945); De Meerleer v. Michigan, 329 U.S. 663 (1947); Marino v. Ragen, 332 U.S. 561 (1947); Haley v. Ohio, 332 U.S. 596 (1948). Dicta appeared in several cases thereafter suggesting an absolute right to counsel in capital cases. Bute v. Illinois, 333 U.S. 640, 674 (1948); Uveges v. Pennsylvania, 335 U.S. 437, 441 (1948). A state court decision finding a waiver of the right in a capital case was upheld in Carter v. Illinois, 329 U.S. 173 (1946).

[276] Gideon v. Wainwright, 372 U.S. 335, 350 (1963).

[277] Youth and immaturity (Moore v. Michigan, 355 U.S. 155 (1957); Pennsylvania ex rel. Herman v. Claudy, 350 U.S. 116 (1956); Uveges v. Pennsylvania, 335 U.S. 437 (1948); Wade v. Mayo, 334 U.S. 672 (1948); Marino v. Ragen, 332 U.S. 561 (1947); De Meerleer v. Michigan, 329 U.S. 663 (1947)), inexperience (Moore v. Michigan, *supra* (limited education), Uveges v. Pennsylvania, *supra*), and insanity or mental abnormality (Massey v. Moore, 348 U.S. 105 (1954); Palmer v. Ashe, 342 U.S. 134 (1951)), were commonly cited characteristics of the defendant demonstrating the necessity for assistance of counsel.

[278] Technicality of the crime charged (Moore v. Michigan, 355 U.S. 155 (1957); Pennsylvania ex rel. Herman v. Claudy, 350 U.S. 116 (1956); Williams v. Kaiser, 323 U.S. 471 (1945)), or the technicality of a possible defense (Rice v. Olson, 324 U.S. 786 (1945); McNeal v. Culver, 365 U.S. 109 (1961)), were commonly cited.

[279] The deliberate or careless overreaching by the court or the prosecutor (Gibbs v. Burke, 337 U.S. 772 (1949); Townsend v. Burke, 334 U.S. 736 (1948); Palmer v. Ashe, 342 U.S. 134 (1951); White v. Ragen, 324 U.S. 760 (1945)), prejudicial developments during the trial (Cash v. Culver, 358 U.S. 633 (1959); Gibbs v. Burke, *supra*), and questionable proceedings at sentencing (Townsend v. Burke, *supra*), were commonly cited.