prerogatives attendant to our adversarial system of justice.[306] Second, defense counsel can deprive a defendant of effective assistance by failing to provide competent representation that is adequate to ensure a fair trial,[307] or, more broadly, a just outcome.[308] The right to effective assistance may be implicated as early as the appointment process. Cases requiring appointment of counsel for indigent defendants hold that, as a matter of due process, the assignment of defense counsel must be timely and made in a manner that affords "effective aid in the preparation and trial of the case."[309] The Sixth Amendment also is implicated when a court appoints a defendant's attorney to represent his co-defendant as well, where the co-defendants are known to have potentially conflicting interests.[310]

Restrictions on representation imposed during trial also have been stricken as impermissible interference with defense counsel. The Court invalidated application of a statute that empowered a judge to deny final summations before judgment in a nonjury trial: "The right to the assistance of counsel . . . ensures to the defense in a criminal trial the opportunity to participate fully and fairly . . . ."[311] And, in *Geders v. United States*,[312] the Court held that a trial judge's order preventing a defendant from consulting his counsel during a 17-hour overnight recess between his direct and cross-examination, to prevent tailoring of testimony or "coaching," deprived the defendant of his right to assistance of counsel and was invalid.[313] Other direct and indirect restraints upon counsel have been found to violate the Amendment.[314] Government investigators

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[306] *E.g.*, Geders v. United States, 425 U.S. 80 (1976) (trial judge barred consultation between defendant and attorney overnight); Herring v. New York, 422 U.S. 853 (1975) (application of statute to bar defense counsel from making final summation).

[307] Strickland v. Washington, 466 U.S. 668, 686 (1984).

[308] Lafler v. Cooper, 566 U.S. ___, No. 10–209, slip op. (2012) (erroneous advice during plea bargaining).

[309] Powell v. Alabama, 287 U.S. 45, 71–72 (1932); Glasser v. United States, 315 U.S. 60, 70 (1942).

[310] Glasser v. United States, 315 U.S. 60 (1942).

[311] Herring v. New York, 422 U.S. 853, 858 (1975). "[T]he right to assistance to counsel has been understood to mean that there can be no restrictions upon the function of counsel in defending a criminal prosecution in accord with the traditions of the adversary factfinding process that has been constitutionalized in the Sixth and Fourteenth Amendments." 422 U.S. at 857.

[312] 425 U.S. 80 (1976).

[313] *Geders* was distinguished in Perry v. Leeke, 488 U.S. 272 (1989), in which the Court upheld a trial court's order that the defendant and his counsel not consult during a 15-minute recess between the defendant's direct testimony and his cross-examination.

[314] *E.g.*, Ferguson v. Georgia, 365 U.S. 570 (1961) (where Georgia statute, uniquely, barred sworn testimony by defendants, a defendant was entitled to the assistance of counsel in presenting the unsworn statement allowed him under Georgia law); Brooks