

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1961

No. 890, Misc.

CLARENCE EARL GIDEON, *Petitioner,*

— vs. —

H. G. COCHRAN, JR., etc., *Respondent.*

Petitioner, Clarence Earl Gideon, who is now held in the Florida state penitentiary, asks leave to file the attached petition for a Writ of Certiorari to the United States Supreme Court, directed to the Supreme Court of the State of Florida, without prepayment of costs and to proceed in Forma Pauperis. The petitioner's affidavit in support is attached hereto.

/s/
CLARENCE EARL GIDEON,
Counsel for Petitioner.

**AFFIDAVIT IN SUPPORT OF PETITION FOR
LEAVE TO PROCEED IN FORMA PAUPERIS**

I, Clarence Earl Gideon, being duly sworn according to law, depose and say that I am the above petitioner in the above-entitled cause, and, in support of my application for leave to proceed without being required to prepay costs or fees state:

1. Because of my poverty I am unable to pay cost of said cause.

2. I am unable to give security for the same.

3. I believe I am entitled to the redress I seek in said cause.

4. The nature of said cause is briefly stated as follows:

I was sentenced to the State Penitentiary by the Circuit Court of Bay County, State of Florida. The present proceeding was commenced on a petition for a Writ of Habeus Corpus to the Supreme Court of the State of Florida to vacate the sentence, on the grounds that I was made to stand trial without the aid of counsel, and, at all times of my incarceration. The said Court refused to appoint counsel and therefore deprived me of due process of law; and violated my rights in the Bill of Rights and the constitution of the United States.

/s/

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PETITION FOR A WRIT OF CERTIORARI TO
THE SUPREME COURT OF THE
STATE OF FLORIDA

TO: THE HONORABLE EARL WARREN, *Chief Justice of the
United States*

Comes now the petitioner, Clarence Earl Gideon, a citizen of the United States of America, in proper person, and appearing as his own counsel. Who petitions this Honorable Court for a Writ of Certiorari directed to the Supreme Court of the State of Florida. To review the order and Judgement of the court below denying the petitioner a writ of Habeus Corpus.

Petitioner submits that the Supreme Court of the United States has the authority and jurisdiction to review the final Judgment of the Supreme Court of the State of Florida the highest court of the State under sec. 344(B) Title 28 U.S.C.A., and Because the "Due process clause" of the fourteenth amendment of the constitution and the fifth and sixth articles of the Bill of rights has been violated. Furthermore, the decision of the court below denying the petitioner a Writ of Habeus Corpus is also inconsistent and adverse to its own previous decisions in paralled cases.

Attached hereto, and made a part of this petition is a true copy of the petition for a Writ of Habeus Corpus as presented to the Florida Supreme Court. Petitioner asks this Honorable Court to consider the same arguments and authorities cited in the petition for Writ of Habeus Corpus before the Florida Supreme Court. In consideration of this petition for a Writ of Certiorari.

The Supreme Court of Florida did not write any opinion. Order of that Court denying petition for Writ of Habeus Corpus dated October 30, 1961, are attached hereto and made a part of this petition.

Petitioner contends that he has been deprived of due process of law Habeus Corpus petition alleging that the lower state court has decided a federal question of substance in a way not in accord with the applicable decisions of this Honorable Court. When at the time of the petitioner's trial he ask the lower court for the aid of counsel. The court refused this aid. Petitioner told the court that this court had made decision to the effect that all citizens tried for a felony crime should have aid of counsel. The lower court ignored this plea.

Petitioner alleges that prior to petitioner's convictions and sentence for Breaking and Entering with the intent to commit petty Larceny, he had requested aid of counsel, that, at the time of his conviction and sentence, petitioner was without aid of counsel. That the Court refused and did not appoint counsel, and that he was incapable adequately of

making his own defense. In consequence of which he was made to stand trial. Made a Prima Facia showing of denial of due process of law. (U.S.C.A. Const. Amend. 14) *William V. Kaiser vs. State of Missouri*, 65 ct. 363 *Counsel must be assigned to the accused if he is unable to employ one, and incapable adequately of making his own defense. Tomkins vs. State Missouri*, 65 ct 370.

On the 3rd June 1961 A.D. your Petitioner was arrested for foresaid crime and convicted for same, Petitioner receive trial and sentence without aid of counsel, your petitioner was deprived Due process of law!

Petitioner was deprived of due process of law in the court below. Evidence in the lower court did not show that a crime of Breaking and Entering with the intent to commit Petty Larceny had been committed. Your petitioner was compelled to make his own defense, he was incapable adequately of making his own defense. Petitioner did not plead nol contender But that is what his trial amounted to.

Wherefore the premises considered it is respectfully contented that the decision of the court below was in error and the case should be review by this court, accordingly the writ prepared and prayed for should be issue.

It is respectfully submitted,

/s/

CLARENCE EARL GIDEON
P.O. Box 221
Raiford, Florida

January 5, 1962