Case Briefing

Barker v. Wingo

407 U.S. 514 (1972)

Facts and Procedural History

* Following the arrest of petitioner Willie Mae Barker and another as suspects in a murder case, on the first day of the other suspect's trial, the state obtained the first of what was to be a series of 16 continuances of Barker's trial. It was not until after a sixth trial that the other suspect was finally convicted of the two murders with which he and Barker had been charged.
* Barker made no objection to the first 11 continuances granted by the state trial court, but when the state moved for the twelfth time to continue his case in February 1962, he filed a motion to dismiss the indictment, which was denied.
* Following the granting of two other continuances, to which Barker did not object, his trial was set for March 1963, the first term of Court following the other suspect's final conviction.
* On the day of trial, the state again moved for a continuance, citing as its reason the illness of the ex-sheriff who was the chief investigating officer in the case. Barker objected unsuccessfully to this continuance.
* One additional continuance was granted for the same reason. Thereafter, the trial was set for October 1963; Barker filed a motion to dismiss the indictment on the ground that his right to a speedy trial had been denied; the motion was denied. The trial commenced, with the other suspect as the chief prosecution witness, and Barker was convicted and given a life sentence.
* The conviction was affirmed on appeal, following which Barker sought a writ of habeas corpus in federal district court. The district court rejected the petition without holding a hearing but granted Barker leave to appeal.
* On appeal, the United States Court of Appeals for the Sixth Circuit affirmed the district court's judgment, holding that Barker had waived his speedy trial claim for the entire period prior to the date on which he filed his first motion to dismiss and that the remaining period until his trial was not unduly long. Barker was granted a writ of certiorari.

**Law**

The Sixth Amendment to the U.S. Constitution provides for the right of defendants in criminal cases to a speedy trial.

**Legal Question**

Was Barker denied his right to a speedy trial?

**Holding and Vote:** No. unanimous

**Reasoning and Name of Judge** (Justice Powell joined by the entire bench)

Powell, J., delivered the opinion for a unanimous Court.

* The right to a speedy trial is generically different from any of the other rights enshrined in the Constitution for the protection of the accused. In addition to the general concern that all accused persons be treated according to decent and fair procedures, there is a societal interest in providing a speedy trial that exists separate from, and at times in opposition to, the interests of the accused.
* The inability of courts to provide a prompt trial has contributed to a large backlog of cases in urban courts, which, among other things, enables defendants to negotiate more effectively for pleas of guilty to lesser offenses and otherwise manipulate the system.
* Although a speedy trial is guaranteed the accused by the Sixth Amendment to the Constitution, this Court has dealt with that right on infrequent occasions.
* In Klopfer v. North Carolina, 386 U.S. 213 (1967), the Court's opinion established that the right to a speedy trial is "fundamental" and is imposed by the Due Process Clause of the Fourteenth Amendment on the States.
* As MR. JUSTICE BRENNAN [407 U.S. 514, 516] pointed out in his concurring opinion in Dickey, in none of these cases have we attempted to set out the criteria by which the speedy trial right is to be judged. 398 U.S., at 40 -41. This case compels us to make such an attempt.
* If an accused cannot make bail, he is generally confined, as was Barker for 10 months, in a local jail. This contributes to the overcrowding and generally deplorable state of those institutions.
* A second difference between the right to a speedy trial and the accused's other constitutional rights is that deprivation of the right may work to the accused's advantage. Delay is not an uncommon defense tactic. As the time between the commission of the crime and trial lengthens, witnesses may become unavailable, or their memories may fade.
* Finally, and perhaps most importantly, the right to a speedy trial is a more vague concept than other procedural rights. It is, for example, impossible to determine with precision when the right has been denied. We cannot definitely say how long is too long in a system where justice is supposed to be swift but deliberate.
* The amorphous quality of the right also leads to the unsatisfactorily severe remedy of dismissal of the indictment when the right has been deprived.
* Perhaps because the speedy trial right is so slippery, two rigid approaches are urged upon us as ways of eliminating some of the uncertainty which courts experience in protecting the right. The first suggestion is that we hold that the Constitution requires a criminal defendant to be offered a trial within a specified period.
* The second suggested alternative would restrict consideration of the right to those cases in which the accused has demanded a speedy trial. Most States have recognized what is loosely referred to as the "demand rule," 20 although eight States reject it.
* The nature of the speedy trial right does make it impossible to pinpoint a precise time in the process when the right must be asserted or waived, but that fact does not argue for placing the burden of protecting the right solely on defendants.
* We reject, therefore, the rule that a defendant who fails to demand a speedy trial forever waives his right. 28 This does not mean, however, that the defendant has no responsibility to assert his right.
* In ruling that a defendant has some responsibility to assert a speedy trial claim, we do not depart from our holdings in other cases concerning the waiver of fundamental rights, in which we have placed the entire responsibility on the prosecution to show that the claimed waiver was knowingly and voluntarily made.
* We, therefore, reject both of the inflexible approaches - the fixed-time period because it goes further than the Constitution requires; the demand-waiver rule because it is insensitive to a right which we have deemed fundamental. The approach we accept is a balancing test, in which the conduct of both the prosecution and the defendant are weighed.

**Concurring opinion** (Justices White, joined by Justice Brennan)

* A speedy trial is essential to prevent an unconstitutional infringement on the liberty of the defendant.
* An overcrowded docket would not be a reasonable basis for a delay.
* Given the facts of this case, however, Barker acquiesced to the delays without state pressure.

United States v. Wade

388 U.S. 218 (1967)

Facts and Procedural History

* The federally insured bank in Eustace, Texas, was robbed on September 21, 1964. A man with a small strip of tape on each side of his face entered the bank, pointed a pistol at the female cashier and the vice president, the only persons in the bank at the time, and forced them to fill a pillowcase with the bank's money.
* The man then drove away with an accomplice who had been waiting in a stolen car outside the bank. On March 23, 1965, an indictment was returned against respondent Wade and two others for conspiring to rob the bank and against Wade and the accomplice for the robbery itself.
* Wade was arrested on April 2, and counsel was appointed to represent him on April 26. Fifteen days later, an FBI agent, without notice to Wade's lawyer, arranged to have the two bank employees observe a lineup made up of Wade and five or six other prisoners and conducted it in a courtroom of the local county courthouse.
* Each person in the line wore strips of tape such as allegedly worn by the robber, and upon direction, each said something like 'put the money in the bag,' the words allegedly uttered by the robber. Both bank employees identified Wade in the lineup as the bank robber.
* At trial, the two employees, when asked on direct examination if the robber was in the courtroom, pointed to Wade. The prior lineup identification was then elicited from both employees on cross-examination.
* At the close of testimony, Wade's counsel moved for a judgment of acquittal or, alternatively, to strike the bank officials' courtroom identifications on the ground that conduct of the lineup, without notice to and in the absence of his appointed counsel, violated his Fifth Amendment privilege against self-incrimination and his Sixth Amendment right to the assistance of counsel. The motion was denied, and Wade was convicted.
* The Court of Appeals for the Fifth Circuit reversed the conviction and ordered a new trial at which the in-court identification evidence was to be excluded, holding that, though the lineup did not violate Wade's Fifth Amendment rights, 'the lineup, held as it was, in the absence of counsel, already chosen to represent appellant, was a violation of his Sixth Amendment rights.

**Law**

The Sixth Amendment of the United States Constitution guarantees an accused party the right to counsel.

**Legal Question**

The question here is whether courtroom identifications of an accused at trial are to be excluded from evidence because the accused was exhibited to the witnesses before trial at a post-indictment lineup conducted for identification purposes without notice to and in the absence of the accused's appointed counsel?

Holding and Vote. **Yes**

Reasoning and Name of Judge (Mr. Justice Brennan, joined justices Warren (except Part I), Douglas (except for Part I), Clark, and Fortas)

* The lineup itself or anything shown by this record that Wade was required to do in the lineup violated his privilege against self-incrimination.
* The Court in Holt, however, put aside any constitutional questions which might be involved in compelling an accused, as here, to exhibit himself before victims of or witnesses to an alleged crime; the Court stated, 'we need now consider how far a court would go in compelling a man to exhibit himself.'
* We have no doubt that compelling the accused merely to exhibit his person for observation by a prosecution witness prior to trial involves no compulsion of the accused to give evidence having testimonial significance.
* The case presents no question of the admissibility in evidence of anything Wade said or did at the lineup, which implicates his privilege.
* The fact that the lineup involved no violation of Wade's privilege against self-incrimination does not, however, dispose of his contention that the courtroom identifications should have been excluded because the lineup was conducted without notice to and in the absence of his counsel.
* The Framers of the Bill of Rights envisaged a broader role for counsel than under the practice then prevailing in England of merely advising his client in 'matters of law' and eschewing any responsibility for 'matters of fact.
* In Miranda v. State of Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694, the rules established for custodial interrogation included the right to the presence of counsel.
* Nothing decided or said in the opinions in the cited cases links the right to counsel only to the protection of Fifth Amendment rights.
* In sum, the principle of Powell v. Alabama and succeeding cases requires that we scrutinize any pretrial confrontation of the accused to determine whether the presence of his counsel is necessary to preserve the defendant's basic right to a fair trial as affected by his right meaningfully to cross-examine the witnesses against him and to have effective assistance of counsel at the trial itself.
* Insofar as the accused's conviction may rest on a courtroom identification in fact the fruit of suspect pretrial identification which the accused is helpless to subject to effective scrutiny at trial, the accused is deprived of that right of cross-examination, which is an essential safeguard to his right to confront the witnesses against him.

Concurring opinion (Justice Clark)

* With reference to the lineup point involved in this case, I cannot, for the life of me, see why a lineup is not a critical stage of the prosecution. Identification of the suspect, a prerequisite to the establishment of guilt, occurs at this stage, and with *Miranda v. State of Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966), on the books, the requirement of the presence of counsel arises unless waived by the suspect.
* I dissented in Miranda, but I am bound by it now, as we all are. Schmerber v. State of California, 384 U.S. 757, 86 S.Ct. 1826, 16 L.Ed.2d 908 (1966) precludes the petitioner's claim of self-incrimination. I, therefore, join the opinion of the Court.

Concurring’s and dissenting in part (Justice Fortas, joined by The Chief Justice and Mr. Justice Douglas.

* The exhibition of the person of the accused at a lineup is not itself a violation of the privilege against self-incrimination.
* The accused may not be compelled in a lineup to speak the words uttered by the person who committed the crime.
* Our history and tradition teach and command that an accused may stand mute. The privilege means just that; not less than that.
* The accused must be advised of and given the right to counsel before a lineup—and I join in that part of the Court's opinion, but this is an empty right unless we mean to insist upon the accused's fundamental constitutional immunities.

Gideon v. Wainwright

572 U.S. 335 (1963)

Facts and Procedural History

* Petitioner was charged in a Florida state court with having broken and entered a poolroom with intent to commit a misdemeanor.
* This offense is a felony under Florida law. Appearing in Court without funds and without a lawyer, petitioner asked the Court to appoint counsel for him, whereupon the following colloquy took place in the COURT:

Mr. Gideon, I am sorry, but I cannot appoint counsel to represent you in this case. Under the laws of the State of Florida, the only time the Court can appoint counsel to represent a Defendant is when that person is charged with a capital offense. I am sorry, but I will have to deny your request to appoint counsel to defend you in this case.

* 'The DEFENDANT: The United States Supreme Court says I am entitled to be represented by Counsel.'
* Put to trial before a jury, Gideon conducted his defense about as well as could be expected from a layman. He made an opening statement to the jury, cross-examined the state's witnesses, presented witnesses in his own defense, declined to testify himself, and made a short argument 'emphasizing his innocence to the charge contained in the Information filed in this case.' The jury returned a verdict of guilty, and petitioner was sentenced to serve five years in the state prison.
* Later, petitioner filed in the Florida Supreme Court this habeas corpus petitioner attacking his conviction and sentence on the ground that the trial court's refusal to appoint counsel for him denied him rights 'guaranteed by the Constitution and the Bill of Rights by the United States Government.'
* Treating the petition for habeas corpus as properly before it, the State Supreme Court, 'upon consideration thereof' but without an opinion, denied all relief.
* Gideon next filed a handwritten petition in the Supreme Court of the United States.

**Law**

The Sixth Amendment provides,”In all criminal prosecutions, the accused shall enjoy the right to have the Assistance of Counsel for his defence.”

**Legal Question**

Did the trial court err in refusing to appoint a counsel for the Wainright?

**Holding and Vote**. Yes 9–0

**Reasoning and Name of Judge**

Justice Black filed the majority’s opinion, in which he was joined by Warren, Brennan, Stewart, White, and Goldberg.

* Since 1942, when Betts v. Brady, 316 U.S. 455, 62 S.Ct. 1252, 86 L.Ed. 1595, was decided by a divided Court, the problem of a defendant's federal constitutional right to counsel in a state court has been a continuing source of controversy and litigation in both state and federal courts.
* The Sixth Amendment provides, 'In all criminal prosecutions, the accused shall enjoy the right to have the Assistance of Counsel for his defense.’
* The Court in Betts had ample precedent for acknowledging that those guarantees of the Bill of Rights, which are fundamental safeguards of liberty immune from federal abridgment, are equally protected against state invasion by the Due Process Clause of the Fourteenth Amendment.
* The facts upon which Betts claimed that he had been unconstitutionally denied the right to have counsel appointed to assist him are strikingly like the facts upon which Gideon here bases his federal constitutional claim.
* We accept Betts v. Brady's assumption, based as it was on our prior cases, that a provision of the Bill of Rights which is 'fundamental and essential to a fair trial is made obligatory upon the States by the Fourteenth Amendment. We think the Court in Betts was wrong, however, in concluding that the Sixth Amendment's guarantee of counsel is not one of these fundamental rights.
* Certain fundamental rights, safeguarded by the first eight amendments against federal action, were also safeguarded against state action by the due process of law clause of the Fourteenth Amendment, and among them, the fundamental right of the accused to the aid of counsel in criminal prosecution.
* The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel.
* It is not surprising that the Betts Court, when faced with the contention that 'one charged with a crime, who is unable to obtain counsel, must be furnished counsel by the state,' conceded that '(e)xpressions in the opinions of this Court lend color to the argument
* The Court in Betts v. Brady departed from the sound wisdom upon which the Court's holding in Powell v. Alabama rested.

**Concurring opinion (Clark, Douglass, and Harlan)**

* In Bute v. Illinois, 333 U.S. 640, 68 S.Ct. 763, 92 L.Ed. 986 (1948) this Court found no special circumstances requiring the appointment of counsel but stated that 'if these charges had been capital charges, the court would have been required, both by the state statute and the decisions of this Court interpreting the Fourteenth Amendment, to take some such steps.'
* The Sixth Amendment requires the appointment of counsel in 'all criminal prosecutions' is clear, both from the language of the Amendment and from this Court's interpretation.
* The Constitution makes no distinction between capital and noncapital cases.
* Betts v. Brady should be overruled, but consider it entitled to a more respectful burial than has been accorded, at least on the part of those of us who were not on the Court when that case was decided.
* The principles declared in Powell and in Betts, however, have had a troubled journey throughout the years that have followed first the one case and then the other.
* In noncapital cases, the 'special circumstances' rule has continued to exist in form while its substance has been substantially and steadily eroded.
* The special circumstances rule has been formally abandoned in capital cases, and the time has now come when it should be similarly abandoned in noncapital cases, at least as to offenses which, as the one involved here, carry the possibility of a substantial prison sentence.
* The right to counsel in a case such as this should now be expressly recognized as a fundamental right embraced in the Fourteenth Amendment.