

Gideon's Trumpet Study Guide

Gideon's Trumpet by Anthony Lewis

(c)2015 BookRags, Inc. All rights reserved.



Contents

Gideon's Trumpet Study Guide.....	1
Contents.....	2
Plot Summary.....	3
Chapters 1 and 2.....	5
Chapters 3 and 4.....	7
Chapter 5.....	9
Chapters 6 and 7.....	12
Chapters 8 and 9.....	13
Chapter 10.....	16
Chapters 11 and 12.....	18
Chapters 13 and 14.....	20
Epilogue.....	22
Characters.....	24
Objects/Places.....	28
Themes.....	30
Style.....	32
Quotes.....	34
Topics for Discussion.....	36



Plot Summary

Clarence Earl Gideon is a fifty-one-year-old white man from the South who believes that he was denied due process of the law because he was not assigned an attorney during his trial in the early 1960s. Gideon, holding to the idea that the Constitution assured him of that right, files a petition with the United States Supreme Court. In fact, the trial courts on the state level are grappling with the question of when a petitioner is to have an attorney. The Gideon case will answer that question once and for all.

The courts are working off a twenty-year-old Supreme Court decision, *Betts vs. Brady*. In this case, the Justices of the Supreme Court upheld the decision of a lower court by saying that a farmer named Smith Betts of Maryland had not been entitled to an attorney at the time of his trial for robbery. In Maryland, the practice at the time was to appoint an attorney for a person too poor to hire one on his own, but only when he was charged with rape or murder. With that decision, the Supreme Court set a precedent that the defendant of a lesser crime was not entitled to a court-appointed attorney. Then emerged the "special cases" rule that required the appointment of an attorney if the defendant were illiterate, ignorant, suffering a mental disease or facing a complicated case. One of the biggest problems of that special rule is that a person who is not intelligent enough to handle his own trial is also not likely to be able to file an appeal. It's a circuitous issue - the unlearned man who isn't appointed an attorney probably isn't able to file the paperwork for his appeal to argue that he should have had one. Gideon is the exception and it's by sheer tenacity that he succeeds in filing his appeal with the Supreme Court in keeping with their rules.

It's important to understand the social and legal climate of the day. Many appeals are filed on the right to counsel issue, and the Supreme Court has generally agreed with the petitioner prompting retrials in a number of cases. The fact that the Supreme Court can't seem to draw any clear rule on the issue means that lower court outcomes are often overturned. There's a friction between the Supreme and lower courts over the issue and lack of direction. In addition, the United States has seen the results of a racial dictator gone mad in Hitler's persecution of the Jews and the American people are leaning toward the rights of an individual over the rights of the government. Finally, there has been ongoing discussion of federalism vs. states' rights with some people holding to the idea that the states should have the right to determine how to handle their own criminal court system.

When the time comes for state attorneys to make a statement on the issue, the majority who speak out are in favor of the rule that all felony cases are to be assigned an attorney. The rights of the individual, they say, should outweigh the rights of the government. Not only that, but some argue that the fact that a defendant has an attorney of his own means fewer overturns on appeal and that the legal system is more likely to get at the truth of the case with two competent lawyers meeting in the courtroom.



Gideon himself is granted a new trial on his argument that he should have had an attorney. He makes his selection from a local lawyer who is familiar with the area and Gideon is found "not guilty" of robbing a poolroom in Florida. Asked if he thought he'd accomplished something, Gideon notes that he certainly did. The requirement for all defendants to be given an attorney was soon accepted in every state though each of the states established its own way of handling the case loads.



Chapters 1 and 2

Chapters 1 and 2 Summary and Analysis

Clarence Earl Gideon is a fifty-one-year-old white man from the South who believes that he was denied due process of the law because he was not assigned an attorney during his trial. Gideon, holding to the idea that the Constitution assured him of that right, files a petition with the United States Supreme Court. He mails his request from the Florida State Prison in Raiford, and it's received by assistant Supreme Court Clerk Michael Rodak, Jr. While the rules allow some leniency for petitions filed in this manner, Rodak does check to be certain the petitioners have followed the rules that are enforced. Gideon's does and successfully clears the first hurdle toward being heard by the Supreme Court. H.G. Cockran, director of the Florida Division of Corrections, was named a respondent in Gideon's case.

Gideon isn't a "professional criminal" but simply couldn't seem to hold a job. He has served time in prison before the current incarceration but that hasn't stopped him caring about freedom. He is so determined that when his first petition is filed because there's no "pauper's affidavit," Gideon uses the Court-provided samples to file again. The petition is handwritten, neatly, which is also allowed in such cases. Gideon says his case should be heard because his trial violated the Fourteenth Amendment - he had no attorney. In fact, the Fourteenth Amendment doesn't guarantee an attorney but Gideon argues that point. The law actually says that only those in "special circumstances" are to be provided cases - a person who is illiterate, ignorant, young, mentally ill or accused of a capital offense. A transcript of the proceedings indicates that Gideon asks for an attorney and is denied by the trial judge.

The number of subjects available for petitioning the Supreme Court is limited. A question of interpretation of the Constitution is one of those and it's on that basis that the trial was "so unfair" it doesn't provide "due process" that Gideon submits his petition. It's also important to note that federal law supersedes state law. The court system must run its course, meaning that a case must go through the state's court system before being appealed to the Supreme Court. There are some exceptions to even these rules. Gideon's case meets the requirements meaning the Supreme Court has the power to decide to hear it - but they still aren't required to consider the case. The Judge's Bill of 1925 gives the Supreme Court Justices the freedom to decide which cases they'll hear with only a few exceptions, and they need give no reason for their decisions. Chief Justice Hughes noted that the Supreme Court should only hear cases that will impact past the initial petitioners.

As it turns out, the issue of whether a defendant is entitled to legal counsel has been recently on the minds of the Supreme Court Justices, giving Gideon's petition an addition boost into the system.

—



The Supreme Court often received requests from prisoners so that aspect of Gideon's case was nothing new. It's interesting that the clerks who handle those requests seem so ardent about their jobs. It's noted that sometimes, one of the clerks would point out a particular case and predict that this one would be accepted and that the previous court decision would be overturned. No one said that about Gideon's case.

Gideon is serving time for petty larceny for having apparently broken into the Bay Harbor Poolroom in Panama City, Florida. It's interesting to note that he hadn't been able to settle down to a lifestyle that included regular work but is willing to hand write a five-page document, submit his petition twice and wade through the legal jargon in an effort to meet the requirements of the Supreme Court. It will later be revealed that more than his incarceration hangs in the balance. Gideon is on the verge of losing custody of his own three children and his stepdaughter. He will write to the attorney assigned to handle the Supreme Court case that all he wants is to get out of jail so that he can arrange for his children.

The Supreme Court never gets to decide an issue that isn't brought before the Justices. Those judges are not lawmakers in the sense that they have an idea and enact a law on that basis, but they do shape law in that their decisions are used to interpret laws in courts across the country.

One standard rule is that the person bringing the petition before the Supreme Court must have been hurt by the action. Put simply, someone else couldn't have the petition related to Gideon's case - only Gideon had been wronged so it was up to Gideon or his attorney to file the petition. Of course, Gideon didn't have an attorney.

It's important to note that a 1940s case, *Betts vs. Brady*, had established the rules for assigning an attorney to a defendant. It seems that the courts have been plagued with problems as they tried to apply the rules of *Betts vs. Brady* and that the Justices are therefore very familiar with the question of when a defendant is entitled to counsel. It's in this situation that Gideon brings his petition before the court, meaning the timing is right, the issue is broader than just the case of Gideon himself and that Gideon has been wronged by the lower court's action. These are all things that will likely make the Justices take a closer look at the petition.



Chapters 3 and 4

Chapters 3 and 4 Summary and Analysis

The process for the Supreme Court decision is precise. A petitioner submits the request and the opposing side has thirty days to respond. After that time, a copy of the request and response - if any - are handed to each justice. The justices are required to review each though some have law clerks that write brief memorandums describing the contents of the file. Gideon's case had no reply and is forwarded to the Justices on February 8. The Chief Justice's law clerks call on the State of Florida to file a reply by April 7 to clarify the legal issues. On April 9, the reply is received - a thirteen-page document saying that Gideon did not have the right to counsel under the rules of *Betts vs. Brady*. Gideon receives a copy and replies on April 21, beginning with the statement that he can't cite laws such as the Florida Attorney General has, but that he "knows there are many of them."

The Justices, as always, consider whether to hear the case behind closed doors with no one other than the nine Justices present. At the end of that conference, the Justices have decided to hear Gideon's case, saying that the question before them is "Should this Court's holding in *Betts vs. Brady*, 316 U.S. 455, be reconsidered?"

While Gideon might have been denied an attorney by the lower court, he's absolutely entitled to representation during his Supreme Court hearing. Gideon must make the official request for the appointment to occur, but it's a formality of the Court. Abe Fortas, a Washington attorney, is appointed and agrees to represent Gideon. Though Fortas has been in the company of U.S. Presidents and active in the Government, he's known for his work with corporations. It's Fortas who argued the case that prompted the Supreme Court to expand its rule of insanity, allowing that a person is not "criminally responsible" for his actions if he suffers a mental disease or defect.

Fortas has a limited amount of information. He knows nothing of the trial that put Gideon in jail and little of the man himself. He is also faced with a serious decision. He can argue that the standards of *Betts vs. Brady* should be overturned in general or that his client - Gideon - should have been appointed counsel under the rules of *Betts vs. Brady* but was denied. Fortas decides to dig a little deeper into the case and calls for a transcript of Gideon's trial.

There were nine Justices - just as there had been from the inception of the Supreme Court. They have eighteen clerks to aid them and the staff continues to handle whatever arises, as opposed to many Washington, D.C. offices where the number of staff seems always on the rise.



It's interesting to note that the Supreme Court seems to take the word of the person who claims indigence. In the lower court where Gideon was denied an attorney, his indigency status is never questioned. Nor are any of the other questions that might have qualified him for a court-appointed attorney. There's no way to know exactly what conspired among the Justices to determine that Gideon's case would be heard, but it's interesting to see that one line of his letter to the Court reads, "It makes no difference how old I am or what color I am or what church I belong to if any." The author notes that there's no way to be certain if the parody was intended but that it was present.

It's noteworthy that an attorney who represents a client in a Supreme Court case gets money to travel to Washington, D.C., to argue the case and to travel home. There is no other payment except that the attorney has done a good turn for a fellow human being and that his name is now connected to a Supreme Court case - which may or may not be good for his business. Attorneys are informally notified before the Justices' appointment is made public to avoid the "mutual embarrassment" of an attorney declining an appointment. The author notes that it's rather like an invitation to dinner with the President and few decline.



Chapter 5

Chapter 5 Summary and Analysis

Fortas finds that opening and closing arguments are not recorded and the jury is not given any instruction regarding the requirements for determining Gideon's guilt before being released to deliberate. During the trial, the prosecution calls a man named Henry Cook who says that he saw Gideon in the poolroom at five-thirty on the morning of June 3, and that he had a bottle of wine in his hand. Cook says he saw Gideon go down the street, use a pay phone and leave in a cab. Then Cook realized that the "front was off the cigarette machine" and the moneybox empty. Gideon asks what Cook is doing out at that time of the morning and he says he's returning from a dance. Fortas notes that a lawyer would have followed up on Cook's relationship to Gideon and his reason for being on the streets, but that Gideon let the testimony go. There are other similar points that could have been made by a lawyer, according to Fortas. He says that Gideon questions his landlady and succeeds only in having her say that she's never seen him drunk. Fortas indicates that a lawyer would have known that drunkenness could have been a defense for the crime.

The jury finds Gideon guilty and the judge, having received notice of Gideon's previous criminal history, sentences him to the maximum of five years in prison. Over the next months, Fortas considers going to visit Gideon to answer some questions for himself. Among those were Gideon's ethnicity and his background. He decides against it but then receives a letter from Gideon requesting information. The two correspond over the next weeks until Gideon writes that the real story of what happened did not come out in the trial and that he'll provide any information Fortas requests. Fortas, seeing an opening, invites Gideon to tell him a little of his background but stresses that it's vital that he be "absolutely accurate" in his statements. Gideon replies with a twenty-two page letter on Nov. 13.

Gideon tells that his father dies when he was three and his mother remarries. His stepfather is strict and he runs away at fourteen to escape the home life. When he returns, his mother turns him in and he's arrested, though Gideon doesn't say what the charge is. He runs away again but it's cold and he steals clothes. He's caught and spends a year in a reformatory that he says was the most horrible place he's ever been. He mentions scars left from the beatings of that year. He starts work in a shoe factory, just as his mother and stepfather had worked in a shoe factory. He marries but later loses his job and "committed some crimes in 1928." At eighteen, he spends more than three years in jail. In 1934, he's sentenced for stealing government property and spends more time in jail. He sends money to his parents who have lost their home during the Depression.

Over the next years, until 1955, he is in and out of trouble, serving several jail terms. In 1955, he marries Velma Cooper of Hannibal, Missouri, and buys a domino and beer hall. Over the next ten months, he divorces and marries Ruth Babineaux. Gideon helps



Ruth get her three children back, including a daughter, Donna, from a foster home and two sons, Ralph and Joe. In 1956, Ronald Earl Gideon is born and the second son, David Wayne Gideon, in 1957. He sells the club, tries his hand at other ventures and admits that he wasn't very successful.

When Gideon moves to Florida to escape the stigma of his previous records, wages are lower and he turns to gambling but soon runs "afoul of a poker game" that involved several area officials including a chief of police. In 1959, Gideon is arrested and charged with "breaking and entering to commit a misdemeanor." The trial is stopped abruptly with the trial judge, Clay E. Lewis, handing down a directed "not guilty" verdict. A few days later, the one and only witness to take the stand, J.C. Tyndal, was arrested for transporting whiskey. Also in 1959, Gideon's youngest child, a daughter, is born. Gideon notes that life was difficult for his wife and the state, saying that the children weren't being cared for, placed all six children in foster homes. Gideon says he doesn't believe his wife ever got over the loss and that she began drinking.

Gideon gets involved in church, not because he's interested but because he hopes it will help his wife to be involved and that his children will learn respect. The church helps the family while Gideon is ill and off work but the family doesn't qualify for welfare because of Gideon's criminal record. Gideon is diagnosed with A-typical tuberculosis and undergoes surgery. He notes that while in the hospital, he was fed well and that it worried him that his children might be hungry. When Gideon leaves the hospital against medical advice to check on things at home, the children are on their own and his wife is with another man. He says there was "a fight and everything" and he was arrested but was only charged for being drunk before returning to the hospital. His children are later taken again by child welfare though Gideon has the opportunity to visit them. His wife is pregnant again and Gideon is pressed to give up his rights, which he does, allowing the child to be adopted.

He's later arrested for robbing an armory though he says there's no reason he was a suspect other than the fact that he'd robbed one some twenty-five years earlier. He's arrested two more times, including for the breaking and entering of the poolroom - the crime that sent him for his current prison sentence. Gideon writes that he's been summoned to court regarding the custody of his children but that the case has been postponed until his Supreme Court hearing is complete.

At one point, the trial judge tells Gideon that he's "responsible" for his witnesses. Gideon says he understands but it's difficult to know what the judge could have been trying to say. It's interesting that he tells Gideon that he can call for the dismissal of any of the six jurors and that he doesn't have to give a reason - that even if he just doesn't like how one or all of them looks, he can dismiss them. However, he doesn't say that Gideon has a right to question them.

It's interesting that Fortas wants to know some of Gideon's background, including whether he is a Negro. There's no explanation for why it might be important but the reader should keep in mind that the book was written in the mid 1960s and that racial issues have recently been at the front of the social scene and in the courts.



Gideon's letter is filled with grammar and spelling mistakes and there are places in which it's a rambling account of his life. However, there seems to be an undertone of intelligence as if he's able to absorb at least some of what he reads and hears. He ends by saying that laws have evolved since the beginning of their enactment and that his case could be another small step toward justice. It's noteworthy that he describes years of criminal activity and that his children have been in and out of foster care during that time. However, he now says he will fight for them with everything he has. An optimist would say that now, faced with the reality that his wife is not going to take care of them and he's on the verge of permanently losing custody, he's realized the seriousness of the situation. A pessimist would likely ask what would be different this time, even if Gideon were released and given all the help to which he's entitled.



Chapters 6 and 7

Chapters 6 and 7 Summary and Analysis

The Supreme Court is bound not so much by laws as by the trends and ideals of the Justices who serve. As a general rule, the Justices' decisions follow their own ideas of what's most important in the judicial system. Among the more important concepts is the determination of federalism - state's rights versus those of the Federal Government. As Gideon's appeal is being prepared by his attorney, Fortas considers that there's been a recent history of the Justices declining to approve petitions that would be applied across the board to all states. There have been some exceptions though there are strong emotions attached to the rights of states to run their own criminal proceedings. If Gideon's appeal is approved, all state courts will be impacted.

Gideon says he would have left Panama City, Florida, had he ever had the money to do so. He says that it's expensive to move a family and continues to say that he wants to make a life for his family when he's free. He says that as a person who knows about the electrical systems of cars, he feels he can make a living.

In prison, Gideon is a trusty and says that the facilities for filing court documents are inadequate. He says prisoners have no contact with attorneys and cites his own case with the Supreme Court giving him lists of regulations that were difficult for the layperson to understand. It's noted that Gideon seems to be something of the "legal expert" of the prison and that he helps others. For example, he submitted a request for an attorney on behalf of an illiterate prisoner.

It's noted that the Justices of the Supreme Court have a higher power than any other judge in the land. Judges of lower courts who sentence a man to death may be reassured by the fact that the higher court has the power to affirm or overthrow that decision. The author notes that some Justices find the power overwhelming and Justice Jackson once wrote that the Supreme Court's decisions aren't final because of the infallibility of the Justices, but that the decisions are infallible simply because of the finality of those decisions.

It's noteworthy that Gideon is confident of his winning the case before the Supreme Court. He says that he hasn't read any Supreme Court decisions except what he's read in the newspapers. He does make the point that the trial judge say he couldn't appoint Gideon an attorney when in fact, he could - he simply declined to do so.



Chapters 8 and 9

Chapters 8 and 9 Summary and Analysis

State judge Walter V. Schaefer of the Supreme Court of Illinois asserts that the right to an attorney is greater than all other rights because a layperson can't be expected to know how to argue that specific evidence shouldn't be allowed or how to effectively question witnesses. The right to counsel had been greatly limited for those accused of felonies under English. The Americans had adopted the Sixth Amendment, which provides for the right to counsel in what was an apparent effort to avoid the English courts' trap of preventing an attorney for those accused of felonies. In 1836, almost a half century later, the English law is changed to provide lawyers for felons. The Supreme Court Justices who were to hear Gideon's case are all aware that many of the cases they hear are the result of the absence of a defense attorney to argue points of law for the defendant and that it's often because the defendant is too poor to retain an attorney.

In 1932, the Supreme Court hears the Scotsboro Case, *Powell vs. Alabama*. Six black youths were accused of the rape of two white girls. The six are tried in three trials that last one day each, none has attorneys and all are sentenced to death. The Supreme Court rules that in this case, the six should have been granted counsel but the ruling was limited to cases in which defendants faced capital punishment, the communities are hostile and the defendants unable to help themselves. The opinion entered by the court indicates that there was no need for the justices to determine what would occur in other types of criminal cases. The next landmark case is *Johnson vs. Zerbst* in which case the opinion indicates that federal defendants should always have the right to an attorney. The rules of state courts remain up to the courts themselves.

The next is *Betts vs. Brady* in 1942. Smith Betts is a farmer in Carroll County, Maryland, accused of robbery. He requests an attorney and is denied. In this case, the Supreme Court upholds the ruling, saying that it's the right of individual states to decide the issue. There are two additional rights to counsel cases over the next years but both are capital and the Supreme Court reverses decisions - indicating a trend that capital cases must have counsel but less serious offenses are at the discretion of the courts. Other rights to counsel cases are approved only when the petitioner falls into the "special circumstances" category. The cases that follow prompt criticism with some saying there's no way to determine what the Supreme Court will uphold and what will be denied. Just prior to Gideon's initial filing, the Court rules in *Carnley vs. Cochran* - another case originating in Florida - that the defendant should have been appointed counsel. In this case, it seems clear that the Supreme Court is leaning in favor of requiring lawyers appointed in all criminal cases.

Fortas considers his role in Gideon's case and says that he is fairly certain he will have the support of four of the nine Justices with a possible fifth, based on their decisions on similar questions. However, Fortas notes that he wants as many Justices on the



assenting side as possible. With that in mind, he begins to work on arguments that he believes will reach each Justice individually. He says that if he had the option, he'd simply say that they should all walk down to a criminal court and watch a defendant try to defend himself.

The process at Fortas' law firm begins with the compilation of a series of questions to be asked and answered and an assignment of young lawyers to research the issue of right to counsel. Among the proposed questions is how far any new ruling should go. For instance, should those accused of a traffic violation have the right to counsel as well? John Hart Ely, a Yale law student working with the firm for the summer, heads up the research and concludes that the courts in Florida use the same language as the Supreme Court when deciding whether a defendant should have counsel but usually rejects the request. In just a few years, the Supreme Court had reversed four right to counsel cases from Florida. Then, at Fortas' suggestion, Ely explores the idea that eliminating the Betts standards might strengthen the state courts by eliminating the possibility of a Supreme Court reversal on an issue that seems vague. Another possible argument is a previous Supreme Court decision that rules that a court must provide a transcript at no charge to a defendant who can't afford one for the purpose of filing an appeal. That ruling indicates that there's no fairness where the ability to pay for a transcript determines whether an appeal can be filed. Ely points out that the same can be said of a defendant's ability to retain counsel on his own.

The question of errors at trial is not the question before the Supreme Court but Fortas wants the Justices to see the mistakes that were made. He wants to point out that the judge in this case was trying to make Gideon aware of his rights and that Gideon had the chance to do what a lawyer would have done in the form of questioning witnesses and evidence. The State of Florida objected to the inclusion of the trial transcript as part of the case. The Supreme Court calls for the transcript to be included. Ely returns to school and Ralph Temple takes over with some assistance by Bruce Montgomery.

Fortas briefly considers the question of when a lawyer should be appointed but decides that it's only for the trial. He refers to a case in which a man with the means to hire his own attorney appealed on the basis that he didn't know he had the right to have his attorney present when he was questioned. Fortas believes that if that man's appeal was denied there's no need to take his own petition that far. There's also an argument of the amount of money it will cost for states to provide attorneys for every indigent but Fortas talks of the number of cases on appeal for the right to counsel question - each with an appointed attorney - that would be eliminated. Finally, Fortas plans to propose that the new rule will apply only to future cases, eliminating the worry that thousands of convictions will be overthrown. The Supreme Court had previously ruled this to be acceptable.

The finished brief makes these points:

* The elimination of Betts vs. Brady would mean less intervention by the federal courts on the lower by eliminating a controversial means of appeal.



* Even a lawyer will decline to represent himself and no layperson could be expected to know points of law.

* The Betts rule is unfair because it requires that a person of low intelligence should have an attorney but if that rule isn't followed, that same person of low intelligence has no lawyer to help file an appeal.

When Gideon receives a copy, he writes to Fortas to thank him for the "brilliant document."

In the Betts vs. Brady case, it's interesting to note that the Illinois appellate court denied Betts' petition and that the Supreme Court mentions the Chief Justice of the Maryland court of appeals, Carroll T. Bonds, by name in fifteen places. It's suggested that the esteem of Supreme Court Justices for Bonds may have influenced that Supreme Court ruling. Three Justices dissented saying they felt the right to counsel to be fundamental.

It's interesting to note that Gideon's case comes on top of another case from Florida - Carnley vs. Cochran. That case seems to weaken even more the fabric of the Betts ruling and the state courts' option to decide which criminal defendant has the right to an attorney. There's no indication that Gideon was specifically aware of that case though he does at one point say that his knowledge of recent Supreme Court decisions is only what he's read in the newspapers.

It's important to note that the Justices had complete control over deciding who would represent Gideon. They selected Fortas and it could have been because they were leaning toward the elimination of the rules of the Betts case in favor of the requirement of counsel. If they were to take that step - which would not be universally popular among the law community - they possibly wanted as much intelligent argument for the decision as possible.

It's interesting that Gideon had been denied an attorney because the court decided that he was of sufficient intelligence to defend himself. Gideon's tenacity in filing his appeal is actually a sign of that intelligence though he is largely uneducated and his writing is filled with grammar and spelling mistakes. With that in mind, Ely suggests to Fortas that one of the arguments could be that a person of truly low intelligence wouldn't be able to get through the process. Upon examining the transcript of Gideon's trial, Ely notes that Gideon seems adept at the questioning but that it's an illusion as there are many points Gideon misses that would have been used by an adequate attorney.



Chapter 10

Chapter 10 Summary and Analysis

Bruce Robert Jacob, assistant attorney general, is the young lawyer assigned to defend the state's position in the Gideon case. Jacob works on his side of the case alone and a girl he's dating types it for him after hours. Jacob notes that he was told that it might be wise to contact all other states with the information about the case and to see if he could muster support for the state. He says that he was fearful of his reputation if he were to lose the case, which he equated with losing the Betts vs. Brady rule. He doesn't get an overwhelming response and very little in the way of assistance. Walter Mondale of Minnesota wrote that he was sympathetic to the cause but believes that all felony defendants should have a lawyer. Jacob replies that the true issue is not of an attorney but of states' rights but Mondale holds firm. In fact, Mondale's letter circulated among some select members of the law community and results in General Gerald A. Berlin deciding to write a brief in support of Gideon from Massachusetts. Twenty-two additional states signed. Fortas is "astounded" at the similarities of the brief submitted by the states to that submitted by Fortas. Oregon files its own brief, only six pages and with the single point that the state had determined it to be less costly to simply appoint counsel at the front end of a case than to hear the appeals and work to rectify the errors on the back end. The American Civil Liberties Union also submits a brief in support of Gideon's petition.

Only Alabama and North Carolina stand with Florida on the issue. Alabama's brief, written by George D. Mentz of the attorney general's office, points out that the federal government doesn't require states to "humanitarian" efforts such as feeding and clothing the poor and that many lawyers feel an indigent without counsel is more likely to be acquitted than if he had an attorney. He gives no basis for these claims. Jacob continues to work on the case though he's no longer with the attorney general's office. Then Justice Frankfurter, one of the few who stood solidly on the side of federalism, retires and his replacement, Justice Arthur Goldberg, seems unlikely to follow in his predecessor's footsteps.

Jacob's brief, completed in his evenings and weekends with the help of his new wife, makes several points. Top among those are the rights of states to determine what works and what doesn't. Jacob argues that the trial transcript indicates Gideon was capable of defending himself as well as any lawyer would have done and that the law itself is filled with inconsistencies. He also says that it's impossible to draw the line at felonies and that the result would be "an enormous burden on members of the bar." One relatively new point is that if the courts are required to provide counsel just because a person is poor, there remains a distinction between those of financial means and the indigent defender in that the poor man can't afford bail, psychiatric evaluations and other methods of defense available to the rich defendant. Fortas had pointed out that there would be new questions before the court because the poor defendant would still be at a disadvantage but hadn't raised these specific issues. Finally, Jacob urges the Justices

to consider a possible mass exodus from prison if Betts is overturned. He suggests that a new law, if that's what comes of this case, not apply to anyone already in jail - including Gideon.

It's interesting to note that at this time, the Supreme Court allows "amicus curiae" briefs from those who may have something helpful to add to the case. These people may or may not have something personal to gain from the decision. The practice has since been eliminated with the exception of states and the federal government, probably because of the number of briefs flooding the offices of the Justices. It's noted that in some cases the briefs had nothing to add in the way of legal precedents or real information but were merely a "tally" of opposition and support.

Another interesting point is that in most cases the massive work of a case goes on in the prosecutor's office. In this case, the state's hope lay in a man who worked full time at a law office and confined the majority of his research and writing time to evenings and weekends where he would drive hundreds of miles to a law library. His wife typed the brief and he took only a short period of time off work near the filing deadline. Gideon had the support of a large, established firm on his side. The expensive attorneys spent many hours in research and a senior partner of the firm did the majority of the writing for the brief.



Chapters 11 and 12

Chapters 11 and 12 Summary and Analysis

Some attorneys believe that oral arguments are a formality but the Justices use the opportunity to question lines of reasoning. It's noted that some attorneys view those questions as interruptions of their speech when they should see it as an opportunity to persuade. Lawyers, it's noted, should not be overconfident or ill-prepared and should present facts as opposed to "lofty" ideas. Fortes is familiar with the Court's methods but Jacob spends the days prior to the meeting worrying about many minor points. He says that he's struck by the "pomp" of the building and the formality of the crier who opens the proceedings, but is equally struck by the informality of the proceedings.

The Justices seated on the day of Gideon's case are Arthur J. Goldberg, Byron R. White, Potter Stewart, William J. Brennan, Jr., John Marshall Harlan who is the grandson of an earlier Supreme Court Justice, Tom C. Clark, William O. Douglas, Hugo L. Black and Chief Justice Earl Warren. From the moment of his opening, Fortas is being questioned by Harlan. Fortas says that he believes in federalism but that the *Betts vs. Brady* case sets the federal court in a position of trying lower courts' decisions on a "case-by-case" basis. Fortas then points out that the trial judges have the duty to decide "special cases." He asks how that judge is to accomplish that. "Does the judge say, 'You look stupid,' or 'Your case involved complicated facts?'"

Jacob is plagued by questions given only brief moments for uninterrupted speech. When it's pointed out that four appeals from his state have been reversed, he says merely that his state prefers that it remain their option to try the cases and the court's role to adjudicate on a case-by-case basis. At one point, a Justice asks Jacob whether he believes any of the prisoners currently jailed without the benefit of an attorney are illiterate. The issue isn't pressed but the point seems to be that they all were entitled to an attorney under the "special circumstances" rule but didn't have Gideon's tenacity or educational level to file an appeal.

George Mantz of Alabama is allowed to speak and admits that Alabama's trial courts are considering that "something should be done," indicating that even Alabama could soon follow the trend to appoint attorneys in all cases. He also says that in cases without a defense attorney, the judge is looking out for the interests of the defendant but the Justices say that's neither appropriate nor advisable. Mantz also insists that Alabama would rather see the Supreme Court make case-by-case decisions despite the fact that there had been no recent cases of right to counsel questions upheld. Mantz says only that "Hope springs eternal," indicating that there's always hope that one will. His comment draws laughter from the Justices.

Jacob fully believes the *Betts* rule is to be overturned and turns his attention to hoping that there's not a mass filing of appeals from current prisoners. Opinions are carefully guarded until they are ready for release. When the Justices take a formal vote, the



senior member of the majority writes the opinion or assigns it to another Justice. A dissenting opinion is also issued. As the Justices hone the final opinion, they still have the right to change their minds and even the majority opinion might change to the other side.

Opinions are announced without notice and one of those on the date of the Gideon decision was that "poor prisoners were entitled to counsel for their appeals." Later, Justice Black announces that the Supreme Court has reversed its own earlier opinion of *Betts vs. Brady*. While there were four additional opinions in addition to the majority assenting opinion, the four were not dissents on the fact of overruling *Betts*. Justice Douglas reargues his old proposition that the "Fourteenth Amendment incorporated the Bill of Rights." Justice Clark concurred with overthrowing *Betts* but on different grounds. He cited a military case in which it was decided that the military had no legal right over non-military people in either capital or non-capital cases. With no distinction in that case, Clark argues, there should be no distinction in others. Justice Harlan says that *Betts* played an important role in the evolution of the justice system by allowing the appointment of counsel "in special cases." It's that "special cases" that's been the problem, according to Harlan.

One of the points made by the Justices themselves was why there's a distinction between capital and non-capital cases. Justice Stewart says that the Fourteenth Amendment addresses "life, liberty and property." Jacob argues that everyone is afraid to die. Black's response is that "Maybe they're fearful of spending years in the penitentiary, too." Jacob's inexperience shows and when someone points out that Gideon wouldn't have been allowed to represent someone else in court. Jacob says that he believes a judge wouldn't object. The Justice is quick to point out that the Bar Association would and Jacob admits that his was "a stupid answer."

Fortas closes briefly and it's Justice Harlan who poses the opinion that the only way to overrule *Betts vs. Brady* is to simply say that a decision made twenty years earlier should now be cast aside in favor of a new opinion.

It's interesting that Cochran, the director of the Florida prison system, left his position over the course of Gideon's appeal. The new respondent was Louie L. Wainwright and the case became *Gideon vs. Wainwright*. It's interesting to note that Justice Black, when offering the opinion of the Supreme Court, never tries to say that *Betts* was correct in its time but those times or circumstances have changed. In fact, Black says that *Betts* was simply wrong. Black notes that governments spend money to ensure that suspects are tried correctly and that no less should be done in the interest of defense. Justice Black will later confide to a friend that he never thought he's see *Betts vs. Brady* overruled.



Chapters 13 and 14

Chapters 13 and 14 Summary and Analysis

The next question is implementation. When the Supreme Court ruled that federal defendants must have lawyers, a "non-system" took over in place of any official body creating and funding a system that would work. James V. Bennett, director of the federal penitentiary system, noted that most have appointed attorneys who get no fee for their services, meaning those services are "inept, hasty and perfunctory." In 1963, Attorney General Robert F. Kennedy is quoted as saying that lawyers continue to be compelled to serve as defense lawyers with no compensation, even for out-of-pocket expenses. Only ten days before the Gideon decision, Congress gets a plan for providing for federal attorneys.

The question on the state court level meets even greater problems as more indigent defendants exist but there is a faster attempt to implement the rule. There's an argument for creating a public defender's office in that these attorneys would have all the knowledge of the courts, judges and area as the prosecution. The other side of that argument is that having corporate and other high-level attorneys practice criminal law could lessen the gap between the two ends of that spectrum. The thoughts are that no one attorney should withstand the continuing burden of this requirement, that governmental funding will be required, and that an unpaid lawyer provides little or no real legal advice.

Justices urge that law schools spend more time preparing students for criminal cases and that more attorneys take on at least a case or two each year to help handle the burden. The Ford Foundation makes a series of grants of more than two and a half million dollars, largely for new and existing legal aid agencies. Across the country, individual states begin arranging for the Gideon ruling to be put into effect.

During its next term, the Supreme Court sends ten cases of appeal back to the Florida State Supreme Court ordering that court to reconsider those cases in light of Gideon vs. Wainwright. Justice Harlan writes the dissent in that case saying that the Supreme Court Justices should have decided whether the rule of the Gideon case was to apply to those prisoners convicted before the ruling rather than passing the decision to a lower court.

It's noted that the case of Gideon vs. Wainwright is only one of many cases that created a trend to establish the rights of the individual above the rights of the government. However, what of those who say that the Supreme Court, in making this decision, has compelled states to conform thereby impacting state legislation? Should nine judges have that power? The answer, according to this author, is that Gideon had no way to lobby the legislature for change. It's the same as when the Supreme Court addressed racial issues because in many states the Negro had little or no weight in the political arena. Without the ability to prompt legislative change, the court decisions were the only



options available. In the final analysis, the courts deal with individuals - in this case a man named Gideon - while the legislature deals with abstractions in large numbers. Another reason the Supreme Court works is that each Justice is free to disagree and each is publicly responsible for his actions. Also, judges rule for life while they can be impeached. That lifetime appointment means they don't seek election or re-election and are not indebted to anyone who helps them gain or hold office.

In Florida, Governor Farris Bryant calls on the legislature to enact a "public defender law." Bryant, governor of the state that had opposed the overruling of the Betts rule, now says that it's important for the defendant to have a fair trial and that means that counsel is a must. Bryant also points out that having attorneys to represent the indigent cases means that those found guilty will remain on jail because they no longer have the lack of counsel as grounds for appeal. It's interesting that Bryant makes these statements when just months earlier an attorney in the same state was arguing before the Supreme Court that the courts of Florida preferred that Betts stand and that the Justices continue to affirm or reverse decisions on a case-by-case basis.

It's interesting to see that the individual Justices are men with personalities, ideas and ideals. They each have their own particular stands on particular topics though they are willing to be persuaded to see a different side of an issue. It's also interesting that the Justices reflect the social standing of the day. Though they come from various parts of the country, they are able to move past the fact of being "a Floridian," for example, to be an American. This is important in the Gideon case for several reasons. The social climate was that change was needed. The United States had seen the result of leadership of an unchecked racist named Adolf Hitler. There was a tendency toward individual rights and the courts had the unique power to look past a mass decision to the case of an individual. Finally, Justice Frankfurter, who had been a staunch proponent of federalism, was ailing and had stepped down from the Court prior to the Gideon case but Frankfurter himself says that he would have voted to overthrow Betts. The argument on that front was that the country wasn't ready for the Gideon decision at the time of the Betts case in 1942. The states were not equipped for the task and would have rebelled. By the time Gideon's case appeared on the Supreme Court docket, it was time for the change.



Epilogue

Epilogue Summary and Analysis

Tobias Simon of the American Civil Liberties Union takes over Gideon's case at this point. It's important to note that the win in the Supreme Court did not free Gideon but only granted that he should have had a lawyer during his original trial. This means Gideon will have a new trial and Simon agrees that someone from his office will represent Gideon. On the date set for trial, Gideon argues that he isn't ready for trial, that he can't possibly get a fair trial in the same court with the same judge presiding, and that he doesn't want Simon to represent him. The judge, obviously not wanting Gideon to represent himself, asks Gideon who he wants and Gideon asks for W. Fred Turner. The judge makes the appointment and when it's suggested that the public defender aid in the case, Gideon flatly refuses. Turner asks for a postponement but the trial begins on August 5. Gideon is warned by the judge not to try to "take over" as his own attorney.

Gideon, not realizing the facts of having a new trial, argues that it's double jeopardy. That's not the case when a court decision is overturned by the Supreme Court. When Gideon realizes he's going back to court in Panama City, he believes he has no chance at a fair trial even with an attorney at his side. He seems to believe that he'll be convicted again on principle. In a paper written by Simon later, he'll refer to Gideon as a 'nut' and talk of his "maniacal distrust."

There's no indication how Gideon knows Turner or why he's selected. The judge, likely feeling that every judicial eye is on his actions, offers a prayer before the beginning of the first day of the trial that ends with the words, "and help us to do impartial justice, for Christ's sake."

The first witness for the prosecution is Henry Cook. Turner drives home the fact that Cook has been convicted of stealing a car and that he lied about it under Gideon's questioning during the initial trial. There follows a debate, and the prosecution contends that Cook didn't realize that his guilty plea had resulted in a conviction. Turner also questions Cook's reason for being on the street at that time of the morning and he finally admits that he was waiting for the poolroom to open. Turner questions how Cook could possibly have seen Gideon inside the poolroom because of the large advertisement signs on the windows. Turner also makes the point that Cook doesn't call the police but later says he saw Gideon inside.

Next is Ira Strickland, Jr. who had operated the poolroom. Strickland admits that Gideon sometimes operated the poolroom but says he was never on the payroll and had no reason to be there that morning. Duell Pitts, the arresting officer is next who says that Strickland indicated beer, wine, cigarettes and about sixty dollars was missing. Cab driver Preston Bray says Gideon paid his cab fare in quarters and that he was sober. Turner then produces a witness, J.D. Henderson, who testifies that Henry Cook told him



that he'd been picked up by the police for questioning about the poolroom break-in. According to Henderson, Cook said the person who broke in might have looked like Gideon - much less assured than he'd indicated in his testimony. Gideon himself takes the stand, explains that he'd carried change because of his gambling and says that he'd gambled with Cook. In closing arguments, Turner suggests that it was Cook and his friends who broke into the poolroom and that Cook was walking the street as the lookout. The prosecutor objects, seeming to put much stock in the fact that Gideon had so much change in his possession and that it must have come from the machines in the poolroom. Gideon is found "not guilty" and released immediately. He notes that he's leaving Panama City but plans one farewell stop - at the poolroom he was accused of robbing.

Though it's never explained how Gideon came to select Turner, there's little doubt that Turner - as a Panama City attorney - had some advantages over Simon and any other Miami lawyer. Turner knew, for example, that Cook had been in trouble before because he had represented Cook of the accusation that he'd beat up a man and robbed him of \$1.98. Turner had spent time in the neighborhood and knew the layout of the poolroom and the fact that the advertisements shielded the view from the street. He'd picked pears with Cook's mom and questioned her about her son.

There is no indication of the direction of Gideon's life past the moment of his "not guilty" verdict. It is noted that his half-brother, an Air Force sergeant, is planning to adopt Gideon's children and that Gideon is to stay with a friend in Tallahassee. A reporter asks if he felt he accomplished anything. Gideon replies, "Well, I did."



Characters

Clarence Earl Gideon

Gideon is a fifty-one-year-old white man imprisoned in Florida who makes an appeal with the United States Supreme Court. Gideon's claim is simple. He believes that the U.S. Constitution assures him of the right to an attorney at his trial, even though he's not able to afford one on his own. Gideon makes the appeal for himself, having fallen into that category of prisoners who wants to appeal but has no access to an attorney to write on his behalf. Gideon's appeal is first rejected because it didn't include the appropriate documentation but he makes the necessary changes and resubmits, putting it in line for consideration by the Supreme Court. Gideon's appeal is handwritten on prison-issue notebook paper. He later notes that prisoners have no access to law books or attorney advice meaning it takes a fairly intelligent and dedicated person to take the step.

Gideon describes his life from childhood. His father dies when Gideon is three and his mother remarries. His parents are strict and he eventually runs away. When he returns near his home, he is jailed for the first of many times. Over the years, he seldom holds a job for more than a brief period and is often in jail for some minor crime or petty theft - including gambling. He marries three times and has three children with his third wife. She has children of her own before the marriage and Gideon takes responsibility to a degree for those children as well. When he's jailed again, welfare takes the children and Gideon signs his rights away to this fourth child, allowing an adoption.

Gideon lives in Panama City, Florida when someone breaks into a poolroom and Gideon gets that blame. At the trial, he asks for a lawyer, is denied because of a previous court case that indicated defendants could be tried without a lawyer unless it was a capital offense or there were special circumstances. Gideon claimed none of the special circumstances and the trial judge summarily denied the request for an attorney. He is sentenced to five years in prison and it's from the Florida State Penitentiary that he files the appeal to the Supreme Court. The case results in a decision that establishes the public defender system and requires that all defendants who cannot afford to hire a lawyer on their own be provided at attorney.

Abe Fortas

The fifty-two-year-old Washington attorney appointed to represent Gideon. He's a member a thirty-lawyer firm, Arnold, Fortas and Palmer. He's a graduate of Yale Law School as is one of his partners. He's Jewish and tremendously interested in making money for his firm, though he is also instrumental in drafting Government legislation and advisor to Lyndon B. Johnson and F.D.R. There's no indication how Fortas comes to be appointed, as it's simply a matter for the Supreme Court Justices to decide which attorney is to be appointed to represent any particular client. Fortas has been in the Supreme Court before and is familiar to the Justices.



The fact that Fortas has a large firm behind him and that he recognizes the significance of the case is vital to the eventual outcome. Fortas realizes that the Supreme Court has routinely rejected the idea that the having an attorney is among the rights guaranteed by the Constitution or the amendments so Fortas goes to a different set of arguments. While he is leading the way and is spending hours familiarizing himself with the possible arguments for and against the right to counsel issue, he has a law student doing excessive amounts of research and lawyers within the firm helping with research, opinions and the final drafting of the brief to be submitted to the Supreme Court. Fortas eventually comes to several points including the fact that the high number of cases recently overturned by the Supreme Court because the defendant should have had an attorney is both an unnecessary burden to the Court and a source of irritation between the Supreme Court and the lower courts. Fortas wins both the case and Gideon's personal thanks but declines to be part of the case when it returns to the trial court stage, handing the case off to someone in Florida who could be more in touch with the local courts and more able to conduct local research.

W. Fred Turner

Turner is the Florida lawyer Gideon selects to be his attorney at the second trial following the Supreme Court decision that Gideon - and all defendants - has the right to counsel. It's never explained how Gideon found Turner for the case but it's noteworthy that he's not the attorney first appointed by the court. Turner likely understands the importance of the case and accepts the assignment. It's said that he spends time wandering the streets around the alleged crime and even picks fruit with the mother of the eyewitness who said Gideon committed the theft of liquor, cigarettes and change from a poolroom. Turner knows the eyewitness and has actually represented him on an earlier occasion and for a divorce putting Turner in a better position to pick apart his testimony - which he does. There's no mention in this book of Turner following the Gideon case but it's a matter of history that he went on to become a circuit judge.

Robert L. McCrary, Jr.

McCrary is the trial judge who first hears Gideon's case in Florida and who denies his request for an attorney. It's noted that McCrary tries to be fair to Gideon during the trial but that the trial is not fair anyway. That's one of the arguments for approving Gideon's case when the Justices agree that it's not practical for the trial judge to be put in the position of being an advocate for the defense. When Gideon's case is returned to the trial court, it's again before Gideon and he absolutely believes that he can't get a fair trial before the same judge that defended him originally. As McCrary prepares to begin the trial, he prays aloud and asks for Divine guidance to be certain that the new trial is fair.



Bruce Jacob

Jacob is the Florida Attorney assigned to argue the case on Florida's behalf. It's noted that in a typical case, the prosecution has the upper hand because the prosecutor's office has a full staff of attorneys with the time and manpower to put their case on a firm footing. In this case, the defendant - Gideon - had a major law firm willing to expend hundreds of hours and experienced lawyers to determine the best way to argue the case. Jacob had never been inside the Supreme Court and was spending nights and weekends preparing his case with the help of a single person to type it - also on her own time. Jacob believes he should contact other states to warn them of the Gideon case because the ruling would impact criminal courts in all states. While Jacob hopes that other states will stand with him in support of the denial of Gideon's claim, he discovers that the majority of states that express an opinion want the Gideon case approved. In court, Jacob shows his inexperience and goes so far as to say that the local courts don't mind the number of cases being overturned on the right to counsel question.

Henry Cook

Cook is the man who testified in court that he saw Gideon inside the poolroom during the theft of liquor, cigarettes and change. Cook's own reasons for being on the street at five-thirty in the morning were not thoroughly questioned at the time of the initial trial but later became an issue. Cook's statement that he saw Gideon inside the poolroom also came under fire at the retrial when Gideon's attorney pointed out that the advertisements on the windows would have blocked the view.

Tobias Simon

Simon is a Miami lawyer who was put in charge of Gideon's retrial. He's a lawyer from the American Civil Liberties Union and spends many hours on the case before meeting Gideon. When that meeting takes place, Gideon declines Simon's representation saying that he wants to select his own attorney. Simon later writes that Gideon was a "nut" and that it's a shame that the course of legal history was changed on the basis of an appeal by such a person.

Justice Hugo Black

Black was the Supreme Court Justice selected to write the assenting decision in Gideon's case. It's interesting to note that Black wrote the decision for the majority but that other Justices also wrote opinions. In most cases, additional opinions are only written by the Justices who dissent but that was not true in Gideon's case. This time, the other Justices agreed that Gideon's case should be upheld but did not agree with Black's reasoning for upholding the case. Black's arguments include the fact that the legal system is so complex that any defendant in a court case cannot be assured a fair



trial without an attorney. Black's opinion does not offer direction on any of a number of questions, including how to apply the ruling and whether it should apply to those already imprisoned. It's noteworthy that Black had also written the case of *Betts vs. Brady*.

Justice James Marshall Harlan

Harlan is the Justice who writes another of the assenting opinions in Gideon's case. Harlan says the previous standard, *Betts vs. Brady*, deserves a "respectful burial." Harlan says that *Betts* had served a purpose by indicating that defendants had the right to counsel past the capital cases, but that it had provided for "special circumstances." Harlan says the "special circumstances" rule itself has had a "troubled journey" and that the rule has apparently come to the point of no longer being a reality.

Nellie P. Heath

Heath was the court recorder in Gideon's original trial in Panama City and in the retrial. Heath notes that she thought little of Gideon's initial trial and expected that his life of crime would simply continue.



Objects/Places

Bay Harbor Poolroom appears in non-fiction

The Bay Harbor Poolroom is the business Gideon is accused of robbing.

Miscellaneous Docket appears in non-fiction

The Miscellaneous Docket is set aside by the Supreme Court for cases filed by those petitioners who are too poor to cover printing costs or to pay the one hundred dollar filing fee. Gideon's case was assigned number 890 of the Miscellaneous Docket and arrived on January 8, 1962.

Special Circumstances appears in non-fiction

Special Circumstances prompt the assignment of a attorney to an indigent defendant. Those included illiteracy, ignorance, youth, mental illness or complexity of the charges against him.

Gideon vs. Wainwright appears in non-fiction

Gideon vs. Wainwright was the case filed by Clarence Gideon on appeal to the Supreme Court declaring that his right to counsel had been denied at the trial court level. It's important to note that the case was originally filed as Gideon vs. Cochran, the director of the Florida Penitentiary system but the name was later changed to reflect the name of the new director. The case determined that all defendants have the right to counsel in court.

Betts vs. Brady appears in non-fiction

Filed by Smith Betts of Maryland, Betts vs. Brady was a right to counsel case filed some twenty years prior to Gideon's case. In this case, the Supreme Court denied that there was any reason for Betts to have had a counsel and that the outcome of the trial would have been any different had there been an attorney. This case set up the "special circumstances" rule in which some people - such as those who were illiterate, ignorant or mentally diseased - should automatically have an attorney.

Raiford, Florida appears in non-fiction

Raiford is where Clarence Gideon is imprisoned after his conviction of the theft at the poolroom.



Panama City, Florida appears in non-fiction

Panama City is where Gideon is tried for the theft at the poolroom.

Hannibal, Missouri appears in non-fiction

Hannibal is where Gideon was born in 1910.

Orange Domino Club appears in non-fiction

The Orange Domino club is the business owned by Gideon in the early 1950s.

Cedar Grove Baptist Church appears in non-fiction

Cedar Grove Baptist Church is where Gideon begins attending with his children in Florida. He notes that he's not particularly interested in religion but hopes the church can do something for his wife. She does soon become interested in the church herself, and the church helps his family once he's in jail.

Themes

The Right to Justice

It seems evident that the right to justice, regardless of race or financial status, is the overriding theme of this story. Clarence Earl Gideon asks for an attorney when he's tried of the minor offense of breaking into a poolroom with the intention of committing petty larceny. He's summarily denied his request by the trial judge, is found guilty of the theft and sentenced to five years in prison. Gideon doesn't stop in his quest for what he believes is nothing more or less than his right. He takes what he believes to be the appropriate steps and takes the case on to the Supreme Court. Gideon's first request is denied because he hasn't filed all the proper documentation but he uses the information provided by the Court and files again. This time his case is accepted and he eventually wins the right to an attorney.

The question posed by Gideon is much larger than this single case and the Supreme Court decision will set the precedent requiring that all defendants have the opportunity to be represented by an attorney. There are several problems with the previous way of deciding who should and should not be assigned public defenders. One of those was that the law generally required a defender for anyone who met the "special circumstances" rule, which included ignorance, illiteracy or complexity of a court case. However, if a defendant were illiterate or ignorant and were denied an attorney, that person would be ill-equipped to file an appeal that his rights had been violated. This means that there is a problem in the system itself because those who most need an attorney, upon being denied have no recourse. Another problem is that those cases with complex legal issues are granted attorneys but even attorneys who find themselves in court tend to hire representation. It becomes accepted that a layman simply cannot be expected to know enough about the law to make an adequate case for himself.

The Desire for Freedom

Gideon was a largely uneducated, though seemingly fairly intelligent, man who is willing to work through the steps of an appeal for the chance for freedom. While it might be said that Gideon found himself in the penitentiary with a five-year sentence ahead of him and has plenty of time to do his legal work, it's important to note that it's not a simple matter. His first appeal is rejected simply because he hadn't filed the correct paperwork. The Supreme Court clerk sends him information on filing correctly and Gideon faithfully takes all the required steps to make that happen. He doesn't give up, despite the fact that he's required to use legal terms that have little or no meaning for him and that he's working without help. When Gideon finds himself back in court for a retrial, he doesn't allow himself to be railroaded into accepting an attorney that he believes isn't working for his best interests. Instead, having come this far, Gideon takes another step and has a brief prepared on his own behalf. At that point, the Florida Civil

Liberties Union has appointed an attorney to represent Gideon but he declines the services of that lawyer and earns the right to choose his own.

The fact that Gideon goes through all these steps in order to gain his own freedom is noteworthy, but not unique to Gideon's case. The Supreme Court has a docket set aside for the hearing of the cases filed by the indigents who make all the steps toward an appeal. It's interesting to note that Gideon himself helps a fellow inmate file an appeal, as the man is illiterate.

It's interesting to note that the Supreme Court had previously upheld the right to counsel in every capital case. Asked by Justices why he felt that distinction was applied, Florida attorney Bruce Jacob said that it was probably because people feared death. One Justice points out that people obviously fear prison time as well.

The Tendency to Judge

It's interesting to note that even in a case involving the rights of justice that there's a tendency to judge others. The fact of Gideon's race is questioned by the attorney assigned to represent him in the Supreme Court appeal. Though there's no indication what difference it makes, Fortas is interested in ethnicity and in Gideon's past. When Gideon is later returned to court in Florida for a retrial, he's told that he's been assigned a particular attorney, Tobias Simon from the Florida Civil Liberties Union. When Gideon objects, saying that he doesn't want that attorney but wants one who he believes will be squarely on his side, Simon doesn't take it well. Simon later calls Gideon a "nut" and says it's unfortunate that such an important precedent is brought to law by the case of a person like Gideon.

It's also interesting that Gideon's reaction to the court is similar to his reaction to the attorney. Gideon says that he doesn't believe he'll have a fair trial because the same prosecutor and judge are overseeing the retrial. In fact, Gideon might have supposed that he would get a free pass with no real need to prove his innocence simply because the case had been remanded by a Supreme Court decision. That's not at all the case and he expects the exact opposite. It could be that Gideon is at least partly biased by his previous brushes with the law and with the state's officials who took away his children.

Style

Perspective

The book is written in third person from a limited omniscient point of view. It's the only possible way to tell the story as no one person would have been witness to all the happenings important to the story. It's important to remember that the view is limited in the fact that details of Supreme Court Justices' discussions and what ultimately led them to their decision is not a matter of public record and so is not included in this book. It's equally important to note that the majority of the book is taken from public records including court transcripts and court cases. There's an overall look at societal and legal trends of the day that required a study of those topics.

The perspective is entirely focused on the legal issues surrounding the case. For example, the only information about Gideon himself is the letter he wrote to his attorney in response to a request for background information. Gideon outlines his life in that letter, at least up to a point, but admits that even he might not be entirely honest because there are some aspects of his life that he simply doesn't want to remember. There is no indication of Gideon's fate past the moment of his release from jail.

Tone

The book is written entirely for the purpose of examining the legal issues leading up to and including the case of Gideon vs. Wainwright. There is extensive technical jargon and "legalese" that a less-than-adequate reader may find difficult to understand. That's not to say that the book is overly deep as the legal terms, cases and even historical situation is explained. The reader who expects to learn about the man named Gideon is bound to be disappointed as this book is dedicated to the legal aspects of the case. There are extensive references and explanations of other cases that impacted the case of Gideon vs. Wainwright. In most cases, those are used for additional reference points, meaning the reader should commit the names to memory so that the next references make sense. Overall, the reader with an adequate vocabulary and the will to see the book through to the end will be successful in understanding.

The book was written in 1964 shortly after the case was completed. It's important for the reader to remember that the United States had been embroiled in a war less than two decades earlier in which individual rights had been pushed completely aside by a racist leader - Hitler. In addition, the United States had been home to race riots as blacks and whites clashed over integration and whether the premise "separate but equal" was equal at all. The historical connotations are spelled out to a great degree but a general knowledge of the social climate of the time will likely aid in understanding.

Structure

The book is divided into fourteen chapters and includes an epilogue. The chapters vary in length greatly and tend to be divided at a particular event - the beginning of arguments at the Supreme Court, for example. One of the chapters contains a lengthy letter from Gideon that was initially handwritten. The letter, to his attorney Mr. Fortas, is included in its entirety and with all grammatical and spelling mistakes intact. The letter provides a realistic look at Gideon as a person rather than the sterile view provided by the court documentation.

There are extensive court case references and lengthy discussions on social and legal trends. In addition, the Justices sitting at the time of the case each held opinions that put them in a position to be generally in favor of cases such as Gideon put before them, or generally opposed. There are also lengthy discussions on the ideals of the Justices to give the reader a full view of the way Justices are likely to see the merits of the case. The legal cases are adequately described and the majority of the book is either written in laymen's terms or at least explained in those terms.



Quotes

"There was very little in what he had sent to the Court to portray Clarence Earl Gideon the man. His age, his color, his criminal record if any - not even these basic facts appeared, much less any details for a ore complete portrait. Because the case came from the South, one's assumption might have been that he was Negro. He was not. Gideon was a fifty-one-year-old white man who had been in and out of prisons much of his life."

Chapter 1, Page 5

"Or not least, it might be a question arising under the Constitution - whether, for example, a man had been convicted of crime in a trial so unfair that it could not be called 'due process of law.' That was Gideon's case."

Chapter 2, page 15

"The one thing notable about the response, to an outside observer, was its assumption that the rule of Betts vs. Brady was inviolate. The possibility that the Court might be prepared to overrule it was never considered."

Chapter 3, Page 39

"As a formality, the poor man whose case is to be heard by the Supreme Court must ask for a lawyer. The chief deputy clerk of the Court, Edmund P. Cullinan, sees to it that he does ask. A distinguished gray-haired gentleman who joined the Clerk's Office while still at student at Georgetown Law School in 1930, and who has become an authority on how to proceed before the Court, Cullinan has the recurrent nightmare that some prisoner will want to argue his own case."

Chapter 4, Page 48

"An Arnold, Fortas and Porter associate said later: 'We knew as soon as we read that transcript that here was a perfect case to challenge the assumption of Betts that a man could have a fair trial without a lawyer. He did very well for a layman, he acted like a lawyer. But it was a pitiful effort really. He may have committed this crime, but it was never proved by the prosecution. A lawyer - not a great lawyer, just an ordinary, competent lawyer - could have made ashes of the case.'"

Chapter 5, Page 65

"They gave the state courts discretion, but they don't use discretion. They just say no."
- Gideon, Chapter 7, Page 101

"The whole thrust of recent decisions on criminal procedure was at war with the Betts



philosophy of letting the states manage their trial procedures as they thought best. But these intimations or mortality for the twenty-year-old doctrine did not mean that Forta had no significant role to play as counsel assigned to argue for its formal burial."

Chapter 9, Page 123

"The comments from the bench - sometimes funny, sometimes quite blunt - bring out the personalities of the justices and remind us that the Court is a collection of strong-minded individuals, much less institutionalized than the typical agency of the Executive Branch."

Chapter 11, Page 170

"And time for argument is now rigorously limited. Chief Justice Hughes was said by one of his law clerks to have 'called time on a leader of the New York bar in the middle of the word if.'"

Chapter 11, Page 173

"The honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States. Oyez, oyez, oyez. All persons having business before the honorable, the Supreme Court of the United States, are admonished to draw near and give their attention, for the Court is now sitting. God save the United States and this honorable Court."

- The words of the Supreme Court crier, Chapter 11, Page 175

"The Supreme Court had sounded a trumpet. The response had to come from society."

- Upon the decision of Gideon vs. Wainwright, Chapter 13, Page 203

"Like the Gideon of old who was summoned by an angel of the Lord to lead Israel and overcome the Midianites, Clarence Earl Gideon of Panama City, Florida, championed the cause of justice for all indigent defendants ... It is intolerable in a nation which proclaims equal justice under law as one of its ideals that anyone should be handicapped in defending himself simply because he happens to be poor."

From the Washington Post following the Supreme Court ruling, Chapter 13, Page 217

"In the future the name 'Gideon' will stand for the great principle that the poor are entitled to the same type of justice as are those who are able to afford counsel. It is probably a good thing that it is immaterial and unimportant that Gideon is something of a 'nut,' that his maniacal distrust and suspicion lead him to the very borders of insanity."

- Tobias Simon, Epilogue, Page 239

Topics for Discussion

How is it that Gideon manages to get an appeal in to the Supreme Court of the United States? What stands in the way of others making the same attempt?

What does the term "special circumstances" mean? What is the problem with that term? What is the court case that mentions that term?

Describe Gideon's initial trial and how an attorney might have handled things differently. Would the outcome have been changed by an attorney's presence?

Why is it that Gideon rejects the attorney from the American Civil Liberties Union? What does that attorney later say about Gideon? What does Gideon say about his chances for a fair retrial? Is he correct?

What are at least three of the points argued by Fortas in Gideon's case? What is his attitude about how to proceed with the case?

What are at least three of the points argued against Gideon's case? What happens when the state's attorney, Jacob, calls on the other states to stand with him against the Supreme Court?

Describe the legal trend of the day that prompted the Supreme Court to decide as it did on Gideon's case.

What kind of person was Gideon?