Administrative Office
of the United States Courts

Gideon v. Wainwright and In re Gault

About these Resources

The resources for a courthouse event or a classroom activity include:

- Facts and case summary for Gideon v. Wainwright and In re Gault.
- A scripted re-enactment of the stories of Clarence Gideon (Gideon v. Wainwright) and juvenile Jerry Gault (In re Gault).
- A discussion with federal public defenders about the right to counsel and the role of public defenders in fulfilling the promise of the Sixth Amendment.
- A fictional scenario depicting a real-life situation.
- An agenda providing a guide to the activity.

How to Use These Resources

The courtroom program designed for 9th-12th grade students or teachers for professional development programs can be 60 minutes to 90 minutes, depending on how much time is allotted for the three components:

- The scripted re-enactment done in a readers theater format.
- Discussion with federal public defenders.
- Demonstration of a realistic fictional scenario with the defenders in which all participants are involved.

In Advance

No preparation for students or teachers is needed. Everything is provided in the courtroom and participants are prepared by the federal public defenders.

In the Classroom or Courtroom

Public defenders facilitate the following activities:

1. Participants read their scripted parts from Gideon v. Wainwright and In re Gault.
2. Public defenders summarize Gideon v. Wainwright and In re Gault.
3. Public defenders engage participants in a discussion about:
   - A day in the life of a defender as it relates to teen issues
   - The role of defenders with their clients; in the courtroom; and protecting the rule of law.
   - How the public defender system has an impact on the program participants and other law-abiding citizens.

Program Times

50-minute class period; 60–90-minute courtroom program. Timing depends on the length of discussion segments. Each program component can be adjusted to fit the time allotted for the event.

Preparation

Participant	Notes
Public Defenders	Reading prepared materials. (30 min.) No further research or reading necessary.
Teachers Students	No preparation required.
Courthouse Venue	To find the nearest local courthouse, use the court locator.

Abbreviated Re-Enactment in Courtroom - Agenda

9:15 a.m. - Attorneys Arrive in the Courtroom for Program Review and Walk Through

9:30 – 10:00 a.m. - Participants Go Through Security

- Participants arrive in the courtroom, take the Reality Check Quiz and read program materials.

10:00 – 10:10 a.m. - Welcome, Announcements and Attorney Volunteers Give Their Heart Reason

- The Public Defenders speak about their responsibilities. They explain their role, work experiences, rewards, challenges, and public misconceptions. They discuss the importance of Gideon v. Wainwright; In Re Gault; as well as the importance of the Public Defender System.

10:10 – 10:20 a.m. - Two Public Defenders Present Facts and Case Summaries

- Participants Read Monologues by 1) Clarence Gideon; 2) Female Newspaper Reader; 3) Jerry Gault. For the courtroom program, the other speaking parts have been eliminated. The full script is for use in a classroom.

10:30 – 10:35 a.m. - Fictional Scenario About the Forest Fire and Scripted Monologue

- Using the brief, fictional teen-relevant scenario, the Public Defenders talk participants through the story. A participant volunteers to read the Part of Jerry Gault. This activity may continue into the time for the Q/A session, if necessary.

10:35 – 11:55 a.m. - Debriefing Discussion and Q/A

- At the same time, participants fill out feedback form.

11:55 – 12:15 p.m. - Informal Socializing with the Attorneys and the Judge in the Well

12:15 p.m. - Adjourn

Facts and Case Summary

Gideon v. Wainwright 372 U.S. 335 (1963)

Clarence Earl Gideon was an unlikely hero. He was a man with an eighth-grade education who ran away from home when he was in middle school. He spent much of his early adult life as a drifter, spending time in and out of prisons for nonviolent crimes.

Gideon was charged with breaking and entering with the intent to commit a misdemeanor, which is a felony under Florida law. At trial, Gideon appeared in court without an attorney. In open court, he asked the judge to appoint counsel for him because he could not afford an attorney. The trial judge denied Gideon's request because Florida law only permitted appointment of counsel for poor defendants charged with capital offenses.

At trial, Gideon represented himself – he made an opening statement to the jury, cross-examined the prosecution's witnesses, presented witnesses in his own defense, declined to testify himself, and made arguments emphasizing his innocence. Despite his efforts, the jury found Gideon guilty and he was sentenced to five years imprisonment.

Gideon sought relief from his conviction by filing a petition for writ of habeas corpus in the Florida Supreme Court. In his petition, Gideon challenged his conviction and sentence on the ground that the trial judge's refusal to appoint counsel violated Gideon's constitutional rights. The Florida Supreme Court denied Gideon's petition.

Gideon next filed a handwritten petition in the Supreme Court of the United States. The Court agreed to hear the case to resolve the question of whether the right to counsel guaranteed under the Sixth Amendment of the Constitution applies to defendants in state court.

Procedure

Lower Courts

In the Bay County Circuit Court, Fourteenth Judicial Circuit of Florida, the trial judge denied Gideon's request for a court-appointed attorney because, under Florida law, counsel could only be appointed for a poor defendant charged with a capital offense. The Florida Supreme Court agreed with the trial court and denied all relief.

Supreme Court

Issue

A prior decision of the Court's, Betts v. Brady, 316 U.S. 455 (1942), held that the refusal to appoint counsel for an indigent defendant charged with a felony in state court did not necessarily violate the Due Process Clause of the Fourteenth Amendment. The Court granted Gideon's petition for a writ of certiorari – that is, agreed to hear Gideon's case and review the decision of the lower court – to determine whether Betts should be reconsidered.

Argued

January 15, 1963

Decided
March 18, 1963

Ruling

Reversed and remanded. In its opinion, the Court unanimously overruled Betts v. Brady. Justice Black (who dissented in Betts) wrote the opinion of the court. Justices Douglas, Clark, and Harlan each wrote concurring opinions.

Reasoning

The Court held that the Sixth Amendment's guarantee of counsel is a fundamental right essential to a fair trial and, as such, applies the states through the Due Process Clause of the Fourteenth Amendment. In overturning Betts, Justice Black stated that "reason and reflection require us to recognize that in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him." He further wrote that the "noble ideal" of "fair trials before impartial tribunals in which ever defendant stands equal before the law . . . cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him."

Facts and Case Summary

In re Gault 387 U.S. 1 (1967)

Gerald (Jerry) Gault was a 15-year-old accused of making an obscene telephone call to a neighbor, Mrs. Cook, on June 8, 1964. After Mrs. Cook filed a complaint, Gault and Gault's friend, Ronald Lewis, were arrested and taken to the Children's Detention Home. Gault was on probation when he was arrested, after being in the company of another boy who had stolen a wallet from a woman's purse.

At the time of the arrest related to the phone call, Gault's parents were at work. The arresting officer left no notice for them and did not make an effort to inform them of their son's arrest. When Gault's mother did not find Gault at home, she sent his older brother looking for him. They eventually learned of Gault's arrest from the family of Ronald Lewis. When Mrs. Gault arrived at the Detention Home, she was told that a hearing was scheduled in juvenile court the following day.

The arresting officer filed a petition with the court on the same day of Gault's initial court hearing. The petition was not served on Gault or his parents. In fact, they did not see the petition until more than two months later, on August 17, 1964, the day of Gerald's habeas corpus hearing. At the June 9 hearing, Mrs. Cook was not present and no transcript or recording was made. No one was sworn in prior to testifying. Gault was questioned by the judge and there are conflicting accounts as to what, if anything, Gault admitted. After the hearing, Gault was taken back to the Detention Home. He was detained for another two or three days before being released. When Gault was released, his parents were notified that another hearing was scheduled for June 15, 1964.

Mrs. Cook was again not present for the June 15 hearing, despite Mrs. Gault's request that she be there "so she could see which boy that done the talking, the dirty talking over the phone." Again, no record was made and there were conflicting accounts regarding any admissions by Gault. At this hearing, the probation officers filed a report listing the charge as lewd phone calls. An adult charged with the same crime would have received a maximum sentence of a $50 fine and two months in jail. The probation report was not disclosed to Gault or his parents. At the conclusion of the hearing, the judge committed Gault to juvenile detention for six years, until he turned 21.

Gault's parents filed a petition for a writ of habeas corpus, which was dismissed by both the Superior Court of Arizona and the Arizona Supreme Court. The Gaults next sought relief in the Supreme Court of the United States. The Court agreed to hear the case to determine the procedural due process rights of a juvenile criminal defendant.

Procedure

Lower Courts

The proceedings against Gault were conducted by a judge of the Superior Court of Arizona who was designated by his colleagues to serve as a juvenile court judge. The juvenile court judge committed Gault to juvenile detention until he attained the age of 21. At that time, no appeal was permitted in juvenile cases by Arizona law; therefore, a habeas petition was filed in the Supreme Court of Arizona and referred to the Superior Court for a hearing. The Superior Court dismissed the petition, and the Arizona Supreme Court affirmed. Gault appealed to the Supreme Court of the United States.

Supreme Court

Argued

December 6, 1966

Decided

March 15, 1967

Ruling

Yes, a juvenile defendant is entitled to due process in delinquency proceedings where there is a possibility of incarceration. Justice Fortas wrote the opinion. Justice Stewart wrote a dissenting opinion.

Reasoning

The Supreme Court ruled that, under the Fourteenth Amendment, juveniles have the right to due process. These rights include adequate notice of charges; notification of the parents and child of the juvenile's right to counsel; the right to confront and cross-examine witnesses; and the right against self-incrimination.

In its opinion, the Court underscored the importance of due process, stating that it "is the primary and indispensable foundation of individual freedom" and that "the procedural rules which have been fashioned from the generality of due process are our best instruments for the distillation and evaluation of essential facts from the conflicting...data that life and our adversary methods present." In re Gault, 387 U.S. 1, 20 (1967). The Court noted that, had Gault been 18 at the time of his arrest, he would have been afforded the procedural safeguards available to adults. The Court ultimately determined that, while there are legitimate reasons for treating juveniles and adults differently, juveniles facing an adjudication of delinquency and incarceration are entitled to certain procedural safeguards under the Due Process Clause of the Fourteenth Amendment

Scripted Re-Enactment

Use the monologues to facilitate a historic re-enactment of Gideon v. Wainwright and In re Gault in a readers theater format.

Reader's theater is a dramatic reading of a prepared script as if it were a stage play, however, there are no costumes, props, or actions. Instead, volunteers use expressive voices and gestures to add interest and meaning to the story line. Participants hold their own copy of the script and read their respective parts so that everyone in the audience can hear. They do not memorize their lines. The emphasis is on comprehension and student-centered learning.

Speaking Parts

The speaking parts are listed in order of appearance and males or females can read either part.

- Clarence Earl Gideon
- Female Newspaper Reader
- Narrator for the Abe Fortas Monologue
- Same or Different Narrator for the Abe Fortas Monologue
- U.S. Supreme Court Justice Hugo Black
- Attorney W. Fred Turner
- Juvenile Gerald “Jerry” Gault
- Clarence Earl Gideon (different participant)

Introduction- Clarence Gideon Monologue (884 Words)
Female Newspaper Reader Monologue (149 Words)

[Clarence Gideon walks into the courtroom, spills a pile of coins on a counsel table, and puts down an empty wine bottle. He says:]

There were times in prison when I felt like my life wasn't worth the pile of change or the bottle of hooch I was accused of stealing. But every man has a right to his dignity and due process of law.

I was deprived of both when I had to go it alone in court to defend myself against a felony charge with a five-year prison sentence. I couldn't pay a lawyer, and when I asked the judge for one, he said Florida law wouldn't allow it.

Today -- because of me -- if somebody like you is accused of a crime and you can't afford a lawyer, you have the right to a free attorney appointed by the court. They're called a public defender. You don't have to figure it out for yourself, like I did. That didn't turn out so good for me.

I'm Clarence Earl Gideon.
I was born in Hannibal, Missouri, same as Tom Sawyer, but I didn't have a Tom Sawyer childhood, I'll tell ya. My Dad died when I was three. My Mom married a guy and I couldn't stand him. He made me the family scapegoat, so I quit school after eighth grade and ran away from home.

I took on the life of a hobo and tramp. My first run in with the law was when my Mom had me put in jail for running away. The next day, I escaped into the country. It was extremely cold, so I stole some clothes from a general store. The store owner caught me with all the clothes on and that was the beginning of my career in the justice system.

Today, they would say I was a "homeless, at-risk youth" -- and there'd be "interventions" and diversion programs. But, in those days, I was what they called a "juvenile delinquent" and a "drifter."

Instead of high school, they sent me to "reform school" on a burglary charge. And when I was 18, I graduated to the Big House for robbery, burglary, and larceny. Over the years, I spent time in the prison systems in Kansas; Missouri; Texas; and, finally, Florida – all on charges related to stealing stuff. No violence.

So, in 1961, I was livin' in Florida, working on car electrics as a mechanic. I did some gambling on the side to make ends meet. One night, a pool hall -- where I worked and ran a Poker game -- was broke into. The owner says he found the cigarette machine smashed in and he was missing a pile of change, plus some crates of beer, wine, and Coke. Basically, I got grounded big time for a party I didn't have. Can you relate?

The next thing I know, I'm in court -- without a lawyer even though I kept asking for one. I was an outcast from society facing a felony charge of breaking and entering with intent to commit petty larceny. They pinned it on me and I got sentenced to five years in prison.

But I didn't take it sitting down. It wasn't fair and it wasn't right that I could lose my liberty without even talking to an attorney. I used the prison's law library and read up on the Supreme Court. You've got it good. You're learning about the courts now – before you need 'em. Well, two years into my sentence – as Prisoner No. 003826 -- I wrote a letter by hand on prison stationery to Chief Justice Earl Warren.

[Gideon sits at a counsel table, pretending to write with a pencil and legal pad. He reads out loud his petition to the Supreme Court:]

To: The Honorable Earl Warren Chief Justice of the United States;

"Petitioner *[Gideon looks up and says: "That's me."]* alleges that prior to the petitioners convictions and sentence for Breaking and Entering with the intent to commit petty larceny, he had requested aid of counsel, that, at the time of his conviction and sentence, petitioner was without aid of counsel. That the Court refused and did not appoint counsel, and that he was incapable adequately of making his own defense. In consequence of which he was made to stand trial …."In my letter, I referred to another Supreme Court decision I found in the prison library that I summarized this way in my letter: "Counsel must be assigned to the accused if he is unable to employ one and is incapable adequately of making his own defense."
[Gideon looks up and says: "I underlined that so they'd be sure to read it."]

Well, the Court agreed to hear my case – Gideon versus Wainwright. Wainwright was the head of the prison system in Florida, at the time. I won by a unanimous decision – 9 to nothin.' The Supreme Court said that, in criminal cases, courts have to appoint an attorney to represent you if you can't afford to pay.

My case is considered a landmark in American judicial history. The book Gideon's Trumpet tells my story and in the TV movie, Henry Fonda plays me although I'm better looking.

As I said, this all went down in the 1960s. John F. Kennedy was President. His brother, Attorney General Bobby Kennedy, even took notice of my case:

[Female participant walks to the center of the courtroom and reads this statement from a newspaper:]

"If an obscure Florida convict named Clarence Earl Gideon had not sat down in prison with a pencil and paper to write a letter to the Supreme Court, and if the Supreme Court had not taken the trouble to look for merit in that one crude petition among all the bundles of mail it must receive every day, the vast machinery of American law would have gone on functioning undisturbed. But Gideon did write that letter.

The Court did look into his case and he was retried with the help of a competent defense counsel, found not guilty, and released from prison after two years of punishment for a crime he did not commit, and the whole course of American legal history has been changed."

Attorney General Robert F. Kennedy
November 11, 1963

[Female returns to her seat.]

Abe Fortas, Attorney Appointed by the Supreme Court Monologue (420 Words)

[Narrator Stands at the Podium and Reads:] The Supreme Court appointed one of the most respected lawyers in the country to represent Mr. Clarence Gideon at oral arguments. As history would have it, Mr. Fortas was later appointed to the Supreme Court as an Associate Justice. But as an attorney representing Mr. Gideon on the day of oral arguments in 1963, his job was to reason with the Court and help the justices come to a just conclusion.

[Abe Fortas Goes to the Podium, Holding a Court Transcript and Says:]
Although it was before you were even born, it seems like yesterday when I appeared before the Supreme Court. Here's the transcript of what I said to the Justices: *[Fortas reads the following:]*

"Let me say this, if the Court please: If you will look at this transcript of the record, perhaps you will share my feeling, which is a feeling of despondency.

- This record does not indicate that Clarence Earl Gideon is a man of inferior natural talents.
- This record does not indicate that Clarence Earl Gideon is a moron or a person of low intelligence.
- This record does not indicate that the judge of the trial court in the State of Florida, or that the prosecuting attorney in the State of Florida, was derelict in his duty.
- On the contrary, it indicates that they tried to help Gideon. But to me, if the Court please, this record indicates ... that no man, certainly no layman, can conduct a trial in his own defense so that the trial is a fair trial."

[Fortas steps away from the podium and walks toward the audience, saying:]
"I am happy to say, that the Court ruled unanimously that the Constitution requires states to assure free counsel for the poor in every serious criminal case. And that set the wheels in motion for the development of public defender systems across the nation. Public defender systems that make a difference for each of you – even if you never get in trouble with the law."

[Narrator Stands at the Podium and Reads:] Later, we are going to talk about how the public defender system has an impact on you and on the lives of all law abiding citizens, so I want you to think about that as we continue. Justice Hugo L. Black wrote the opinion for the court and all of the Justices signed on to it, making the decision unanimous. Let's hear his perspective:

Justice Hugo L. Black, Who Wrote the Opinion, Monologue (363 Words)

[Justice Black sits on the bench and says:]

I'm Justice Hugo Black. It's not often that the Supreme Court comes to a unanimous decision, but Gideon v. Wainwright was one of those cases. To put it into perspective, Brown v. Board of Education was another unanimous decision. All of the Justices were so clear that, as I wrote in the opinion:

[Justice Black opens a law book and reads from it:]

> "... lawyers in criminal courts are necessities, not luxuries."
>
> "Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad.
>
> He is unfamiliar with the rules of evidence. Left without the aid of counsel, he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible.
>
> He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him.
>
> Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence."

[Justice Black closes the volume and reads this on the back of the book:]

This opinion set the stage for public defender systems in the states. The attorney who defended Mr. Gideon when he was tried again was Fred Turner. Mr. Turner dismantled the so-called evidence against Mr. Gideon in a way that a layperson could not. It only took the jury an hour to come to a verdict of not guilty.

Mr. Turner demonstrated how important it is for people accused of a crime to have legal representation. Even if they can't afford an attorney, the court must appoint one -- when a defendant is faced with a serious criminal charge -- so that justice is served. And when justice is served, our communities also are served -- and so is our society as a whole. Here is Mr. Turner.

W. Fred Turner, Gideon's Court Appointed Attorney for the Re-Trial Monologue (257 Words)

[Fred Turner walks over to the jury box and puts his hand on the rail. He holds a legal pad with the script on it, and reads:]

I'm Fred Turner. The local district court appointed me to represent Mr. Gideon after the Supreme Court sent his case back to Florida for a re-trial. When I represented Mr. Gideon, I knew my way around a courtroom. I had some role, in more than 100 trials over the course of my career.

But I'll never forget this one. Not just because it was a landmark Supreme Court case, but because it is credited with starting public defender systems across the nation. It is a system of dedicated and highly competent attorneys who are there to help people like you, if you should get into trouble and can't afford a lawyer.

I was quite impressed with Mr. Gideon's "civic engagement" as we'd call it today. The fact that he did his own legal research while in prison, picked up a pencil, and wrote a letter to the Supreme Court shows that we, as citizens, have the right and the responsibility to engage with our justice system and keep it accountable.

All of us – all of you -- have a stake in a well-run justice system. In the wrong circumstances, you could be Clarence Earl Gideon, and you have him to thank for the public defender who would represent you.

Later, you'll get to talk with some of today's public defenders. But right now we're going to hear from a young man whose case opened up the due process – fair process -- rights of juveniles. His name is Gerry Gault.

In Re Gault Gerald Gault Monologue (848 words)

[Gerald Gault walks into the courtroom with a cell phone and puts it on a counsel table. A standard phone is already on the table.]

[Holds up his cell phone:] Hey, I'm Jerry Gault. All the talk about phones these days is about texting while driving. Well, in my day the big thing was making crank calls on these old things. *[Holds up the receiver of the standard phone.]* Reminds you of the old Alfred Hitchcock movies, doesn't it?

[Sits at a laptop and reads:] Well, if I had my own blog today, this is what I'd be writing about my case that went all the way to the Supreme Court. I'd call it: My Fight for Your Rights.

Just a year after the Supreme Court decided in Mr. Gideon's case, I got in trouble with the law in a small town in Arizona.

It was the morning of June 8, 1964, and I was about your age – 15. What really happened depends on who you believe, but what I told the judge was that my buddy Ron Lewis was over at my parents' trailer house where I lived. I'm getting ready for work when I hear my man Ronnie in the next room talking on the phone. He's using some pretty raunchy language. So I walk over, take the phone off him, hang it up, and kick him out of the trailer.

The next thing I know the county sheriff shows up and hauls me off to jail. I'm already on probation, so this is not good. The cops don't tell me what's up. They don't give me my rights. Nothin.'

I hear later that a lady in the trailer park says she got a crank phone call. To tell you the truth, I wouldn't recognize her if she was standing in this courtroom today. The Constitution says you're supposed to be able to confront your accuser in court. Didn't happen in my case. She didn't show up at any of my hearings, even though my parents asked her to.

But anyways, when my parents get home from work that night, they freak out when they can't find me anywheres. They call my boss, my friends, and the hospital. Finally, they track me down at the county Children's Detention Home. But they aren't allowed to come get me.

The next morning, I land in court – no attorney, no parents, nothin'. Just me and Judge Robert McGhee. When it comes to deciding what to do with me, the Judge says he'll "think about it" and they put me back in the slammer for a few more days. Then, out of the blue, they let me out. They don't tell me why and I'm not pushin' it.

That day my Mom gets a note from the superintendent of the juvenile detention home telling her that the Judge has set a hearing for that coming Monday to sentence me on my "delinquency." I'm thinkin': "What the heck . . . ." One day I'm on my way to work and the next thing I know they're talkin' reform school?!!"

Judge McGhee says I'm a "delinquent child" and sends me to the State Industrial School. He's not letting me out until I turn 21!

I was charged with making lewd phone calls. If an adult had been convicted of the same thing, he woulda got a maximum prison sentence of two months and a fine of $5 to $50. I got sent away for six years to what is, essentially, a prison for kids.

Looking back on it, the process was more obscene than the phone call:

1. I wasn't told the charges against me.
2. My parents were kept in the dark.
3. No rights, no attorney. Nothing like what they call due process – doing things the straight up way.

My parents ended up taking my case to the Arizona Supreme Court. But that Court decided that, because I was a juvenile, what the trial judge did was okay and they let it stand. So we took our case to the U.S. Supreme Court.

I finally got justice there. The Supreme Court ruled in my favor. They said the trial court did me wrong and that kids have rights, too. Justice Abe Fortas wrote the opinion. Remember, he was the attorney who won for Clarence Gideon. He wrote a great one-liner in the opinion for me. He said: "Under our Constitution, the condition of being a boy does not justify a Kangaroo court." The opinion was 8-to-one in my favor. *[Pumps his fist]* Yeah!!!

Conclusion of Re-Enactment Clarence Gideon, Ending Monologue (210 words)

After Gerald Gault finishes, Clarence Gideon returns to the well.

[He sits at a different counsel table with a pencil and paper. He looks up and says:]

My attorney Abe Fortas asked me to write down my story, so I wrote him a 22- page letter as honest as I could tell it.

I hope my kids read it someday so that they know what really happened to their old man. Here is the part I'd want them to remember about me:

[Gideon reads as he writes:]

"I always believed that the primarily reason of trial in a court of law was to reach the truth. My trial was far from the truth."

"There was not a crime committed in my case and I don't feel like I had a fair trial. If I had a attorney he coulda brought out all of these things in my trial."

"I believe that each era finds a improvement in law. Each year brings something new for the benefit of mankind. Maybe this will be one of those small steps forward. In the past 35 years I have seen great advancement in penal servitude. Thank you for reading all of this. Please try to believe that all I want from life is the chance for the love of my children – the only real love I have ever had."

And with that, I rest my case. The rest is history.

Fictional Scenario

A Story of How Someone Like You Might Need a Public Defender

Tim Jones is a 17-year-old who just completed his junior year. He has a reputation for hard work in academics and athletics and is widely admired as an inclusive school leader. Tim has been accepted into the early admissions program at his first-choice college. When he is not studying or working out with teammates, he is at his part-time job. Tim has earned his parents' trust as a responsible son who never misses a curfew.

To reward him for his maturity and hard work, Tim's parents allow him to take the family van to go camping with three friends at a federal park in their home state of Green Acres over the Fourth of July weekend. It is a national park with a huge waterfall where the family traditionally spends the holiday together. On the way, Tim decides to buy fireworks. The purchase and use of fireworks are not legal in Green Acres State, so he drives his friends across the state line to Evergreen State where they buy fireworks at the same roadside stand that Tim's Uncle John has taken him to every year.

Back in Green Acres State, at the entrance to the federal park where they have reserved their campsite, a sign reads: "No Fireworks Allowed." Tim says that every year after his parents were asleep in their camper, his Uncle John set off fireworks at this campground with no problems.

By the time the boys set up camp and build a fire at the federal park in Green Acres State, darkness has fallen, so they set off a quick test series of fireworks. After the first round, the boys notice a small fire in the direction they have been launching the fireworks. They try unsuccessfully to put out the fire, which grows quickly and forces them to leave the campground. As Tim drives the van, his friend Terry calls Tim's dad, who tells them they have to report the fire immediately. Terry calls the nearest fire department and directs the fire chief to the location of the fire.

When the fire fighters, forest ranger, and sheriff arrive, the fire is out of control. As the firefighters battle the blaze, Tim is frightened and gives consent to the park ranger and the sheriff to search the van. They find the remaining fireworks and a receipt from the fireworks stand across the state line.

By the next morning, three acres of trees in this popular recreation area are destroyed, and a U.S. Forest Service building is burned to the ground. The initial damage assessment includes more than $200,000 to extinguish the blaze and more than $300,000 to replace the U.S. Forest Service property.

The United States Attorney's Office, based in Green Acres State, is charging Tim with misdemeanor federal crimes of starting a wildfire on federal land and possession of illegal fireworks on federal land. Tim faces penalties of up to six months in jail, probation supervision, and restitution for the property damage as ordered by the Court.

The fire attracts widespread media coverage. The nearby community and national environmental groups stage protests, demanding the maximum penalties.

Discussion Questions

- What factors that you read in the scenario would bring this case into federal court?
- If Tim Jones decides to plead guilty, and you are representing him as a Federal Public Defender, list the weaknesses in your case that an Assistant U.S. Attorney might argue before the sentencing Judge.
- If Tim Jones decides to plead guilty, as his Federal Public Defender, make a list of the strengths of your case that you would argue before the sentencing Judge.