

# Brown v. Board of Education

## Case Background

In Topeka, Kansas in the 1950s, schools were segregated by race. Each day, Linda Brown and her sister, Terry Lynn, had to walk through a dangerous railroad switchyard to get to the bus stop for the ride to their all-black elementary school. There was a school closer to Brown's house, but it was only for white students.

Under the laws of the time, many public facilities were segregated by race. The *Plessy v. Ferguson* case, which was decided by the Supreme Court in 1896, allowed for such segregation. In that case, a black man, Homer Plessy, challenged a Louisiana law that required railroad companies to provide equal, but separate, accommodations for the white and African American races. He claimed that the Louisiana law violated the Fourteenth Amendment, which demands that states provide "equal protection of the laws" or, in other words, treat people equally under the law. However, the Supreme Court of the United States held that as long as segregated facilities were equal in quality, segregation did not violate the Fourteenth Amendment and therefore was constitutional.



However, the Browns disagreed. Linda Brown and her family believed that the segregated school system did violate the Constitution. They believed that the system did in fact violate the Fourteenth Amendment. The National Association for the Advancement of Colored People (NAACP) helped the Browns in their fight against segregation. Thurgood Marshall, who would later in his life go on to become a Supreme Court Justice, was the attorney who argued the case for the Browns.

The case was first heard in a federal district court, the lowest court in the federal system. The federal district court decided that segregation in public education was harmful to black children. However, the court said that the all-black schools were equal to the all-white schools because the buildings, transportation, curricula, and educational qualifications of the teachers were similar;

therefore the segregation was legal.

The Browns, however, believed that even if the facilities were similar, segregated schools could never be equal to one another. They appealed their case to the Supreme Court of the United States. The ruling in the *Brown v. Board* case came in 1954.

## The Ruling

In a unanimous decision, the Supreme Court ruled in favor of Brown. The Court found the practice of segregation unconstitutional and refused to apply its decision in *Plessy v. Ferguson* to "the field of public education." Chief Justice Earl Warren wrote the opinion for the Court.

The justices assessed the equality of the facilities that the Board of Education of Topeka provided for the education of African American children against those provided for white children. Ruling that they were substantially equal in visible factors that could be measured easily, (such as "buildings, curricula, and qualifications and salaries of teachers"), they concluded that the Court must instead examine the more subtle effect of segregation on the system of public education.

Departing from the Court's earlier reasoning in *Plessy*, the justices here argued that separating children solely on the basis of race created a feeling of inferiority in the "hearts and minds" of African American children. Segregating children in public education created and perpetuated the idea that African American children held a lower status in the community than white children, even if their separate educational facilities were substantially equal in visible factors. This feeling of inferiority reduced the desire to learn and achieve in African American children and hurt their educational and mental development. Concluding that "separate educational facilities are inherently unequal," the Supreme Court ruled that segregation in public education denied African American children equal protection of the laws guaranteed by the Fourteenth Amendment and was therefore unconstitutional.

# Mapp v. Ohio

## Case Background

Ms. Dollree Mapp and her daughter lived in Cleveland, Ohio. After receiving information that a person wanted in connection with a recent bombing was hiding in Mapp's house, the Cleveland police knocked on her door and demanded entrance. Mapp called her attorney and subsequently refused to let the police in when they failed to produce a search warrant. After several hours of surveillance and the arrival of more officers, the police again tried to enter the house. Although Mapp did not allow them to enter, they gained access by forcibly opening at least one door. Once the police were inside the house, Mapp confronted them and demanded to see their warrant. One of the officers held up a piece of paper claiming it was a search warrant. Mapp grabbed the paper but an officer recovered it and handcuffed Mapp "because she had been belligerent." The police dragged her upstairs and searched her bedroom. Finding nothing there, they went to search other rooms in the house, including the basement.



As a result of their search of the basement, the police found a trunk containing pornographic books, pictures, and photographs. They arrested Mapp and charged her with violating an Ohio law against the possession of obscene materials. At the trial the police officers did not show Mapp and her attorney the alleged search warrant or explain why they refused to do so. Nevertheless, the court found Mapp guilty and sentenced her to jail.

Mapp and her attorney appealed the case to the Supreme Court of Ohio. Mapp's attorney argued that because the police had no warrant, their search of her basement was illegal. Because the search was illegal, he said, the evidence gained from the search was also illegal. Illegal evidence should not have been allowed in Mapp's trial. In the ruling, the Court disagreed and said that because the evidence was taken peacefully from the trunk, rather than by force from Mapp, it was legal. As a result, Mapp's appeal was denied and her conviction upheld.

Mapp then appealed her case to the Supreme Court of the United States. The case came down to this fundamental question: is evidence obtained through a search that violates the Fourth Amendment admissible in state courts? The Fourth Amendment states "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause . . . and particularly describing the place to be searched, and the persons or things to be seized." The Fourth Amendment, however, does not define when a search or seizure becomes "unreasonable." It also does not explain how evidence obtained from an "unreasonable" search should be treated.

In 1960 the Supreme Court of the United States agreed to hear Mapp's case and determine whether the Fourth and Fourteenth Amendments, which said the Fourth Amendment applies to the states, prohibited state officials from using evidence obtained in an unreasonable search. The decision in *Mapp v. Ohio* was handed down in 1961.

## The Ruling

In a 6-3 decision, the Court ruled in favor of Mapp. The justices found that the States were bound to exclude evidence seized in violation of the Fourth Amendment. In the majority opinion, Justice Tom Clark declared: "We hold that all evidence obtained by searches and seizures in violation of the Constitution [is] inadmissible in a state court.... Were it otherwise...the assurance against unreasonable...searches and seizures would be [meaningless]."

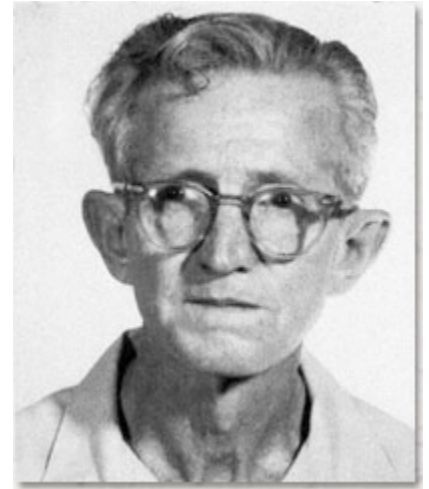
The Court thus ensured that "in either sphere [State or federal]...no man is to be convicted on unconstitutional evidence." The Fourth Amendment sets the standards for searches and seizures by law enforcement officials in the United States, the Court noted, and the Fourteenth Amendment requires judges to uphold those standards in every State. Although they noted that the ruling would make it possible for criminals to go free due to police error, they explained that "the criminal goes free, if he must, but it is the law that sets him free." The justices stated that it was necessary to make state authorities abide by the requirements of the Fourth Amendment, because "nothing can destroy a government more quickly than its failure to observe its own laws."

# Gideon v. Wainwright

## Case Background

Between midnight and 8:00 am on June 3, 1961, a burglary occurred at the Bay Harbor Pool Room in Panama City, Florida. Someone broke a window, smashed the cigarette machine and jukebox, and stole money from both. Later that day, a witness reported that he had seen Clarence Earl Gideon in the poolroom at around 5:30 that morning. When Gideon was found nearby with a pint of wine and some change in his pockets, the police arrested him and charged him with breaking and entering.

Gideon was a semi-literate drifter who could not afford a lawyer, so at the trial, he asked the judge to appoint one for him. Gideon argued that the Court should do so because the Sixth Amendment says that everyone is entitled to a lawyer. The judge denied his request, ruling that the state did not have to pay for a poor person's legal defense unless he was charged with a capital crime or "special circumstances" existed. Gideon was left to represent himself.



As might be expected, Gideon did a poor job of defending himself. He had done no preparation work before his trial; his choice of witnesses was unusual—for instance, he called police officers who arrested him to testify on his behalf, not having any reason to believe they would help his case. He had no experience in cross-examining a witness in order to diminish that person's credibility, so his line of questioning was not as productive as a lawyer's would have been.

Gideon was found guilty of breaking and entering and petty larceny, which was a felony. He was sentenced to five years in a Florida state prison, partly because of his prior criminal record. While in prison, he began studying law in the prison library, believing that his Sixth Amendment rights had been violated when he was denied a defense lawyer paid for by the State. His study of the law led him to file a petition for *habeas corpus* with the Supreme Court of Florida, which asked that he be freed because he had been imprisoned illegally. After the Supreme Court of Florida rejected his petition, he handwrote a petition for a *writ of certiorari* to the Supreme Court of the United States, asking that it hear his case. The Court allowed him to file it *in forma pauperis*, which meant that the Court would waive the fees generally associated with such a petition. Generally, the Court dismisses most of these petitions; Gideon's was among those that it did not dismiss.

## The Ruling

The Supreme Court ruled in favor of Gideon in a unanimous decision. Justice Black wrote the opinion for the Court, which ruled that the right to the assistance of counsel in felony criminal cases is a fundamental right, and thus must be required in state courts as well as federal courts.

The Court said that the best proof that the right to counsel was fundamental and essential was that "[g]overnments ... spend vast sums of money to ... try defendants accused of crime ... Similarly, there are few defendants charged with crime[s]... who fail to hire the best lawyers they can get to prepare and present their defenses." This indicated that both the government and defendants considered the aid of a lawyer in criminal cases absolutely necessary. In addition, the opinion noted that the Constitution places great emphasis on procedural safeguards designed to guarantee that defendants get fair trials. According to the opinion, "this noble idea cannot be realized if the poor man charged with a crime has to face his accusers without a lawyer to assist him." The Court concluded that the Sixth Amendment guarantee of a right to counsel was fundamental and essential to the protection of individuals' civil rights.

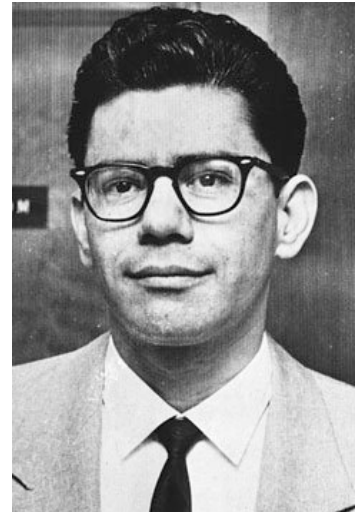
# Miranda v. Arizona

## Case Background

Ernesto Miranda was a poor Mexican immigrant living in Phoenix, Arizona, in 1963. Miranda was arrested after a crime victim identified him in a police lineup. Miranda was charged with rape and kidnapping and interrogated for two hours while in police custody. The police officers questioning him did not inform him of his Fifth Amendment right against self-incrimination, or of his Sixth Amendment right to the assistance of an attorney.

As a result of the interrogation, he confessed in writing to the crimes with which he was charged. His written statement also included an acknowledgement that he was aware of his right against self-incrimination. During his trial, the prosecution used his confession to obtain a conviction, and he was sentenced to 20 to 30 years in prison on each count.

Miranda's defense attorney appealed to the Arizona Supreme Court. His attorney argued that his confession should have been excluded from trial because he had not been informed of his rights, nor had an attorney been present during his interrogation. The police officers involved admitted that they had not given Miranda any explanation of his rights. They argued, however, that because Miranda had been convicted of a crime in the past, he must have been aware of his rights. The Arizona Supreme Court denied his appeal and upheld his conviction.



The case came down to this fundamental question: What is the role of the police in protecting the rights of the accused, as guaranteed by the Fifth and Sixth Amendments to the Constitution? The Fifth Amendment states that no person "shall be compelled in any criminal case to be a witness against himself. . . ." The Sixth Amendment states that, "In all criminal prosecutions, the accused shall enjoy the right . . . to have the assistance of counsel for his defense." Do the police have an obligation to ensure that the accused person is aware of these rights? If so, at what point in the criminal justice process must the defendant learn of these rights?

In 1965, the Supreme Court of the United States agreed to hear Miranda's case. At the same time, the Court agreed to hear three similar cases, *Vignera v. New York*, *Westover v. United States*, and *California v. Stewart*. The Court combined the four cases. Since Miranda was listed first among the four cases considered by the Court, the decision came to be known by that name. The decision in *Miranda v. Arizona* was handed down in 1966.

## The Ruling

In a 5-4 opinion, the Supreme Court ruled in favor of Miranda. The majority opinion, written by Chief Justice Earl Warren, concluded that defendants arrested under state law must be informed of their constitutional rights against self-incrimination and to representation by an attorney before being interrogated when in police custody.

The Court ruled that police must ensure that defendants are aware of their rights before they are interrogated in custody. Because the right against self-incrimination is so important to our system of justice, a case by case determination made by police officers of whether each defendant understands his or her rights is not sufficient. Before interrogating defendants in police custody, they must be warned 1) that they have the right to remain silent 2) that anything they say may be used against them in court, 3) that they have the right to an attorney, either retained by them or appointed by the court, and 4) that they may waive these rights, but they retain the right to ask for an attorney any time during the interrogation, at which point the interrogation can only continue in the presence of a lawyer.

The Supreme Court reasoned that because the right against self-incrimination is so fundamental, and because it is so simple to inform defendants of their rights, any statements made by defendants during a custodial interrogation in which the defendant has not been read his "Miranda rights" are inadmissible in both state and federal courts.



# Reynolds v. Sims

## Case Background

Despite the protections of the Fourteenth Amendment, black voters continued to be disenfranchised in the South through the 1950s. Disenfranchisement took many forms, including literacy tests and poll taxes. The process of apportionment, which determined the boundaries of congressional districts, also effectively disenfranchised voters, particularly those who lived in urban areas. Even though many states' populations were shifting from the country to the city, most states continued to allocate representatives by county, which effectively robbed urban voters of proportional representation in their legislatures. This meant that a representative from an urban county would often represent thousands more people than a representative from a rural county. Rural interests thus held more political power and governed increasingly urban populations.



In Vermont, for example, the most populous assembly district had 33,000 persons, the least populous 238, yet each had one representative. The distortions ran even higher in senatorial districts where many states, like the federal model, followed geographical lines. In California the Los Angeles senate district included more than six million people; in a more sparsely populated part of the state, one senate district had only 14,000 persons. Naturally, the entrenched interests in the legislatures were not about to pass any reform measures that would take away their power, and so urban voters, claiming they were denied equal protection of the laws, turned to the courts.

In 1901, seats in the Alabama state legislature were apportioned, or assigned to districts, based on population. By the early 1960s, each Alabama county still had the same number of representatives as it did in 1901, even though the populations of the counties had changed. A group of voters from an urban area of Alabama sued to make representation proportional to the changed populations. When the suit succeeded, state legislators who were threatened with losing their seats appealed to the Supreme Court.

## The Ruling

Prior to *Reynolds*, the Court had already applied the "one person, one vote" principle to federal congressional elections (see Legal Sources). In *Reynolds*, Chief Justice Earl Warren extended this principle to state legislatures. He argued that when representation does not reflect population, some people's votes are worth more than others'.

"The fundamental principle of representative government in this country is one of equal representation for equal numbers of people, without regard to . . . place of residence within a State. . . . Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests."

Warren concluded that Alabama's apportionment scheme discriminated against people because of where they live. For these reasons, the Court ruled that any acceptable apportionment plan must provide an equal number of legislative seats for equally populated areas. A plan that does not is unconstitutional because it denies some voters the equal protection of the laws.

In a decision written by Chief Justice Earl Warren, the Court ruled that Alabama's apportionment scheme did violate the Constitution's Equal Protection Clause. Because "the right to exercise franchise in a free and unimpaired manner is preservative of other basic civil and political rights," the Court argued, the right to vote is a "fundamental right" strictly protected by the Constitution. And because the United States is a democracy based on equal representation of the people in government, an apportionment scheme that gives more weight to some votes than others violates the Equal Protection Clause, which forbids a state from denying "to any person within its jurisdiction the equal protection of the laws." Because the right to vote is so fundamental to securing protection from the laws, the clause inevitably guarantees "the opportunity for equal participation by all voters in the election of state legislatures." For that reason, the Court decided, legislative districts must be equal in population to ensure equal representation.

# Engel v. Vitale

## Case Background

"Almighty God, we acknowledge our dependence upon Thee, and beg Thy blessings upon us, our parents, our teachers and our country." Each day children in the New York public schools in the 1950s were required to say this prayer along with the Pledge of Allegiance, and to sing "The Star-Spangled Banner." As the New York Board of Regents prepared this prayer for the public schools, it was considered to be nondenominational, or not restricted to or associated with a specific religious denomination. Parents of five students believed this to be against the First Amendment's Establishment Clause, which separates church and State.



Even after the Regents made it entirely optional, only about ten percent of schools in New York used this prayer. One of these schools, located in New Hyde Park, upset a group of five students' parents. They filed a lawsuit to stop the use of this prayer in the public schools. Of these five parents, two were Jewish, one Unitarian, one an Ethical Culture Society, and the last was a self-professed Atheist. These parents argued that the prayer violated the Establishment Clause of the First Amendment. These parents first took the lawsuit to the New York State Supreme Court, asking them to stop the use of the prayer, but the court refused. Justice Bernard S. Meyer found the prayer without doubt religious, but decided it was not in violation of the First Amendment. With the decisions standing, the New York Appellate Division agreed with the previous court's decision. Finally the U.S. Supreme Court agreed to review the case.

## The Ruling

On April 3, 1962, Attorney William J. Butler made his plaintiffs' case to the U.S. Supreme Court wishing to ban the use of the prayer and the teaching of religion in a public institution. During the case, several organizations assisted Butler in defending the rights of the First Amendment. Some of these groups were: the American Jewish Committee, ACLU, Anti-Defamation League of B'nai B'rith, the Synagogue Council of America, National Community Relations Advisory Council, and the American Ethical Union. The school board's Attorney Bertram B. Daiker, defended the prayer by stating it abided by the second part of the First Amendment's religious guarantees, the Free Exercise Clause. This means we have the right to exercise whatever religion we feel necessary, and since they made the prayer strictly optional, they felt that this did not violate the First Amendment.

On June 25, 1962, the Supreme Court ruled 7 to 1 that it was unconstitutional for a government agency like a school or government agents like public school employees to require students to recite prayers. Justice Hugo Black wrote the opinion for the majority: "We think that by using its public school system to encourage recitation of the Regents' Prayer, the State of New York has adopted a practice wholly inconsistent with the Establishment Clause [of the First Amendment]. There can, of course, be no doubt that New York's program of daily classroom invocation of God's blessings...in the Regents' Prayer is a religious activity..."

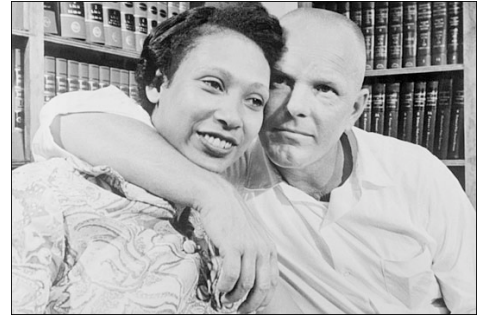
Black further explained that when the power and prestige of the government supports a particular religious belief, those who do not support that belief feel pressured to conform to that government-endorsed religion. "The Establishment Clause thus stands as an expression of principle on the part of the Founders of our Constitution that religion is too personal, too sacred, too holy" to allow it to be intertwined with government. Even if reciting the prayer in school was made to be voluntary, it would still be violating the Constitution.

The Court's decision was not, Black pointed out, antireligious. It wanted, rather, only to reinforce the separation between church and state. "It is neither sacrilegious nor antireligious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers..." Thereafter, State governments could not "prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on any program of governmentally sponsored religious activity."

# Loving v. Virginia

## Case Background

In the 1960's, Richard and Mildred Loving were a young couple from Caroline County, Virginia. Richard Loving was white; his wife, Mildred, was black. In 1958, they went to Washington, D.C. — where interracial marriage was legal — to get married. But when they returned home, they were arrested, jailed and banished from the state for 25 years for violating the state's Racial Integrity Act. The Racial Integrity Act, one of many anti-miscegenation laws that existed in the country, made interracial marriages illegal in order to prevent racial mixing.



To avoid jail, the Lovings agreed to leave Virginia and relocate to Washington. For five years, the Lovings lived in Washington, where Richard worked as a bricklayer. The couple had three children. Yet they longed to return home to their family and friends in Caroline County.

That's when the couple contacted Bernard Cohen, a young attorney who was volunteering at the ACLU. They requested that Cohen ask the Caroline County judge to reconsider his decision. Cohen and another lawyer challenged the Lovings' conviction, but the original judge in the case upheld his decision. Judge Leon Bazile wrote: "Almighty God created the races white, black, yellow, Malay and red, and he placed them on separate continents. ... The fact that he separated the races shows that he did not intend for the races to mix." The case eventually made its way to the Supreme Court.

## The Ruling

As the case was presented to the Supreme Court, Cohen made a vivid and personal argument: "'The Lovings have the right to go to sleep at night knowing that if should they not wake in the morning, their children would have the right to inherit from them. They have the right to be secure in knowing that, if they go to sleep and do not wake in the morning, that one of them, a survivor of them, has the right to Social Security benefits. All of these are denied to them, and they will not be denied to them if the whole anti-miscegenistic scheme of Virginia... [is] found unconstitutional."

Amicus briefs—statements and information presented on behalf of organizations not directly involved with the case—were filed by the National Association for the Advancement of Colored People (NAACP), the NAACP Legal Defense Fund, the Japanese-American Citizen's League, and a consortium of Catholic bishops and other sympathetic organizations. Although sixteen states still had laws banning interracial marriage (Maryland repealed its law in response to the Lovings' Supreme Court case), only North Carolina offered a brief on behalf of Virginia. The Lovings' brief, meanwhile, included legal arguments interspersed with references to sociology and anthropology. Perhaps the most dramatic moment in the courtroom came when Cohen quoted Richard Loving as saying, "Mr. Cohen, tell the Court I love my wife, and it is just unfair that I can't live with her in Virginia."

A unanimous ruling by the U.S. Supreme Court struck down Virginia's law, stating that to deny the "fundamental freedom" of marriage "on so unsupportable a basis" as race "is surely to deprive all the State's citizens of liberty without due process of law." Therefore, to deny interracial marriage violated the equal protection clause of the Fourteenth Amendment.

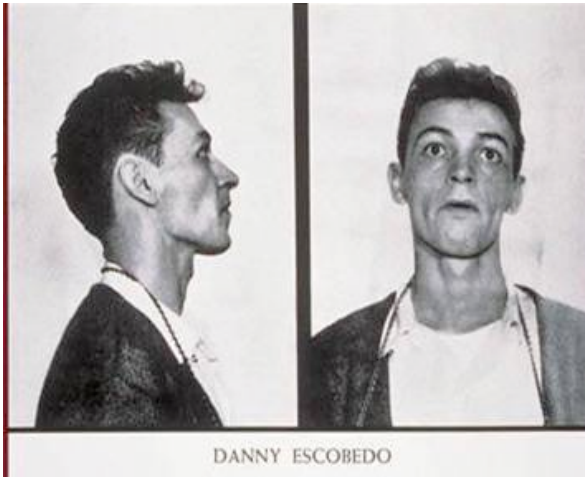
After the ruling — now known as the "Loving Decision" — the family, which had already quietly moved back to Virginia, finally returned home to Caroline County. But their time together was cut short: Richard Loving died in a car crash in 1975. Mildred Loving, who never remarried, lived in Caroline County in the house that Richard built until her death in 2008.

*Loving v. Virginia* established the legal basis for a cultural redefinition of marriage. Over time, marriages between whites and African Americans became both more numerous and more accepted.

# Escobedo v. Illinois

## Case Background

Danny Escobedo was taken into custody by Chicago police at 2:30 A.M. on January 20 in connection with the shooting of one of



his relatives the night before. After a one-hour interrogation, and without an attorney to represent him, Escobedo was released, having made no self-incriminating statements. When police later arrested Benedict DiGerlando, a friend of Escobedo, DiGerlando told police that Escobedo had fired the fatal shots, and Escobedo was arrested once again. Police told him that, "although not formally charged, he was in custody and couldn't walk out the door."

Escobedo's lawyer arrived shortly after his client had been taken into custody the second time. The attorney was repeatedly denied permission to talk to Escobedo, who was interrogated all night, from nine o'clock at night until five o'clock in the morning. Escobedo asked to speak with his lawyer "repeatedly," but the police kept telling him that his lawyer did not want to see him. Throughout the interrogation, the suspect was kept standing, hands cuffed behind his back. He was told that DiGerlando had accused him of the murder. Allowed to confront

his accuser, Escobedo told DiGerlando, "I didn't kill Manuel, you did it." Becoming more emotional, Escobedo made statements concerning his connection with the crime which were later used to convict him of murder in an Illinois court.

## The Ruling

By a 5–4 margin, the Court deemed Escobedo's confession inadmissible, overturned his conviction, and ordered that he be given another trial. Speaking for the majority, Justice Arthur Goldberg wrote: "When [Escobedo] requested and was denied an opportunity to consult with his lawyer, the investigation had ceased to be a general investigation of 'an unsolved crime.'...[Escobedo] had become the accused...." As such, he was entitled to counsel. Goldberg also declared that, since Escobedo was "undoubtedly unaware that under Illinois law an admission of 'mere complicity' in the murder plot was legally as damaging as an admission of firing the fatal shots...[t]he 'guiding hand of counsel' was essential to advise [him] of his rights in this...situation."

Reflecting on past cases, Goldberg wrote: "This Court has also recognized that 'history amply shows that confessions have often been extorted to save law enforcement officials the trouble and effort of obtaining valid and independent evidence.'...No system worth preserving should have to fear that if an accused is permitted to consult with a lawyer, he will become aware of, and exercise, these rights."

Goldberg then moved on to write a carefully generalized statement of what would become "the Escobedo Rule"—an application of the "exclusionary rule" that bars from court evidence gained from a confession made without an attorney present. The Court's ruling in this case, however, was somewhat limited. It applied only to cases where certain specific conditions were present. First, a police investigation must have proceeded beyond the point of "a general inquiry into an unsolved crime," and must have "begun to focus on a particular suspect...."

Secondly, the suspect had to have "been taken into police custody" and been subject to "a process of interrogations that lends itself to eliciting incriminating statements...." Third, the suspect must have "requested and been denied an opportunity to consult with his lawyer," while the police must "not have effectively warned him of his absolute constitutional right to remain silent...." Provided that all of the above conditions existed, the Court would find that "the accused has been denied the 'Assistance of Counsel' in violation of the Sixth Amendment as 'made obligatory upon the States by the Fourteenth Amendment,'...and [as such] no statement elicited by the police during the interrogation may be used against him at a criminal trial."



# School District of Abington Township v. Schempp

## Case Background

A Pennsylvania law required that "At least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day. Any child shall be excused from such Bible reading, or attending such Bible reading, upon the written request of his parent or guardian."

The Schempp family were Unitarians who objected to some ideas presented by a literal reading of the Bible. However, they did not want to ask that their children be excused, because the children would have to stand out in the hallway during the reading and would probably miss the school announcements that followed. So the Schempps, husband, wife, and two of their three children, brought suit to block the enforcement of Pennsylvania's Bible-reading statute. A State appeals court agreed with the Schempp family, declaring that the statute violated the Establishment Clause of the 1st Amendment "as applied to the States by the Due Process Clause of the Fourteenth Amendment..." Defeated, the Abington Township School District appealed.

## The Ruling

In its 6–3 decision, with Justice Clark writing for the majority, the Court found that "the practices at issue [Bible reading] and the laws respecting them are unconstitutional under the Establishment Clause as applied to the States through the Fourteenth Amendment...."

Clark began by discussing the role of religion in the history and traditions of the United States. "It is true that religion has been closely identified with our history and government.... The fact that the Founding Fathers believed devotedly that there was a God and that the unalienable rights of man were rooted in Him is clearly evidenced in their writings, from the Mayflower Compact to the Constitution itself.... [But] the ideal of our people as to religious freedom [is]...absolute equality before the law of all religious opinions and sects..." With respect to religion, then, the "government is neutral, and while protecting all, it prefers none, and it disparages none...."

About the two principles of the Constitution regarding religion, Clark pointed out that the Free Exercise Clause "withdraws from legislative power, State and federal, the exertion of any restraint on the free exercise of religion." The State, in short, cannot impose restrictions on what people may believe or profess in matters of the spirit. "Its purpose," Clark wrote, "is to secure religious liberty in the individual by prohibiting any invasions thereof by civil authority." On the other hand, the Court had determined time and again that the Establishment Clause prohibited any type of sanction by the State of any religion. To allow Bible reading would essentially constitute an endorsement of the Judeo-Christian tradition, which in the opinion of the Court would conflict with the Establishment Clause.

With this case the Court provided a standard of measurement for assessing the constitutionality of government involvement in religious activity. Clark wrote: "The test may be stated as follows: what are the purpose and primary effect of the enactment [law]? If either is the advancement or inhibition of religion, the enactment exceeds the scope of legislative power...."

