



BY BUCK FILES

PRESIDENT, STATE BAR OF TEXAS

Happy 50th Birthday Mr. Gideon

On March 18, 1963, in *Gideon v. Wainwright*, the U.S. Supreme Court held that the Sixth Amendment to the U.S. Constitution, providing that in all criminal prosecutions the accused shall enjoy the right to the assistance of counsel for his defense, is made obligatory on the states by the 14th Amendment, and that an indigent defendant in a criminal prosecution in a state court has the right to have counsel appointed for him.

In 2013, it seems ludicrous that there could have been an issue as to whether a citizen accused of a felony in a state court proceeding should have the right to the assistance of counsel, but that was not always the case. In 1949, in *Ex Parte Parsons*, the Texas Court of Criminal Appeals denied relief to an individual who complained that the trial court had failed to appoint counsel for him. The court noted that:

Appellant was not represented by counsel upon the trial of the case. He represented himself, cross-examined the State's witnesses, conducted the direct examination of his witness, and testified in his own behalf. He denied having committed the primary offense charged. He admitted having been convicted of other felonies. He was a man forty-seven years of age at the time of the trial, married, and a painter by trade. There is no evidence as to the extent of his education. His cross-examination of the State's witnesses and the conduct of his own defense evince an acquaintance with courtroom procedure and the conduct of a criminal trial. He was certainly no novice at being tried for and

convicted for crime. He knew the effect of the application of the habitual criminal statute, and admitted his plea of guilty to some of the prior convictions was motivated by the fact that the State, under his plea, did not seek to apply that statute.

The statutes of this State require the appointment of counsel for an accused only when the charge is that of a capital felony.

The charge against appellant was not a capital felony. It was that of an ordinary felony.

It has been the consistent holding of this court that a trial court is not required to appoint counsel for an accused charged only with an ordinary felony.

It is apparent, then, that under the laws of this State, appellant's contention is not well taken.

During the 82nd Legislative Session, the Texas Indigent Defense Commission was created to coordinate statewide efforts within local communities to ensure that indigent defendants have equal representation. The State Bar Standing Committee on Legal Services to the Poor in Criminal Matters composed of lawyers, judges, and public members, has made a positive impact on the criminal justice system since 1994 when noted Dallas lawyer Vincent Perini was the first chair of the forerunner committee. From my perspective, the committee's most important contribution has been developing guidelines for lawyers handling both capital and criminal cases. These guidelines, adopted by the State Bar Board of Directors, set high standards for those accepting court appointments

to represent indigent defendants. We owe a debt of gratitude to lawyers who accept such cases and to volunteers whose participation on the commission and committee creates a framework for serving the indigent.

While Texas lawyers are helping, we can do more. This year marks the 50th anniversary of *Gideon*. Join me in recognizing the importance of this decision by supporting efforts to increase legal assistance for the indigent.

MythBusters

The Myth: The State Bar of Texas chooses not to advocate to the Texas Legislature on behalf of Texas lawyers.

The Problem: A U.S. Supreme Court decision set the parameters for what any mandatory bar can do in terms of legislative advocacy.

The Truth: The State Bar can advocate for legislation relating to the regulation of the legal profession, improving the quality of legal services, and the administration of justice. Representatives from the State Bar often appear in front of legislative committees to provide information. Prior to each legislative session, the staff works with the Board and the substantive law sections to develop the State Bar's legislative package. The staff also provides information to the legislature, tracks legislation of interest to Texas lawyers, and keeps members informed about proposed legislation of interest to the legal profession via the Friday Update.