

Clearinghouse REVIEW

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Parent Representation

Toward a "Civil Gideon"

Advocacy Stories:

A Self-Help Conservatorship Clinic

Campaign for *Pinero* Justice



Sargent Shriver National Center on Poverty Law

Clearinghouse REVIEW

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About This Issue

During the preparation of this May–June 2013 issue, the fiftieth anniversary of the U.S. Supreme Court's ruling on the right to indigent defense was commemorated, as was the tenth anniversary of the establishment of the National Coalition for a Civil Right to Counsel. In this issue we give a nod to this commemoration with a package of three articles on what the ruling has inspired. Moreover, here follow excerpts from the March 18 *Shriver Brief* blog post by Marcia Henry, a legal editor and the Sargent Shriver National Center on Poverty Law's representative in the coalition since its inception:

On *Gideon v. Wainwright's* 50th Anniversary, What About the Civil Side?

Today marks fifty years since the U.S. Supreme Court held, in *Gideon v. Wainwright*, that anyone charged with a felony and too poor to hire a lawyer has a constitutional right to counsel at no cost. The Court subsequently expanded the right to a broader range of defendants, including anyone charged with a misdemeanor that could lead to jail time.... The anniversary of *Gideon* has been receiving a good deal of attention ... and much of the coverage suggests that since the decision things have gone downhill.... To be sure, much of *Gideon's* promise remains unfulfilled. Not surprisingly, a great majority of criminal defendants are too poor to hire their own lawyers, and the quality of the assigned defenders who represent these defendants varies widely, with impossible caseloads the primary cause of inadequate representation....

But [*Gideon's*] principle ... that the Constitution guarantees at least the semblance of legal counsel before the state may incarcerate, even for a short period, someone charged with a criminal offense remains intact and largely unquestioned....

What of the civil side of the courthouse? What of parents threatened with permanent loss of custody of their children, too poor to hire counsel and forced to represent themselves against an opposing party who can pay a lawyer? What of those who face loss of a home due to botched procedures or outright fraud by faceless financial institutions that have entire law firms on retainer? What about denial of health care when one learns of a life-threatening condition? These threats are arguably much more devastating than a night or two in county jail, and yet ... people who face them have no constitutional right to counsel. The U.S. Supreme Court squelched that hope in 1981 when it decided, in *Lassiter v. Department of Social Services*, that North Carolina did not violate the constitutional rights of a mother who had no lawyer when the state terminated her parental rights.

But the civil side of the right-to-counsel question is getting more attention. Not only did the *New York Times* profile the issue on its March 16 front page; a determined group of advocates across the country is directing attention to the harm lack of counsel in civil cases causes to both individual litigants and the court system. Now marking its tenth year, the National Coalition for a Civil Right to Counsel has worked to increase the availability of counsel as a right for low-income people in cases affecting basic human needs. CLEARINGHOUSE REVIEW ... has covered the work of the coalition since its inception. In 2006, for example, coinciding with the American Bar Association's passage of a resolution in support of a civil right to counsel for low-income people in cases affecting basic human needs, the REVIEW devoted its entire July–August issue to the movement for a civil right to counsel and a range of approaches to achieving the right.

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CLEARINGHOUSE REVIEW encourages the submission of articles from legal aid field staff and others. Send articles to Ilze Sprudz Hirsh, editor and vice president of communication programs, Sargent Shriver National Center on Poverty Law, 50 E. Washington St. Suite 500, Chicago, IL 60602; ilzehirsh@povertylaw.org.

The opinions expressed herein are those of the authors and should not be construed as representing the opinions or policy of the organizations which employ them or of the Shriver Center.

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About This Issue *(Continued from inside front cover)*

[This issue of the] *Review* publish[es] three related pieces on the topic. An article by John Pollock, coordinator of the National Coalition, and Mary Schneider, executive director of Legal Services of Northwest Minnesota, ... take[s] a look back at the coalition's work and progress. Martin Guggenheim and Susan Jacobs of the Center for Family Representation in New York ... discuss advancements in ensuring representation of parents involved in the child welfare system. And retired California Court of Appeal Justice Earl Johnson Jr., now a key player in the coalition, longtime proponent of a civil right to counsel, and pioneer of the legal aid movement, reflect[s] on the meaning of *Gideon* for antipoverty advocates and the evolution of his conviction about the importance of civil counsel.

Most of those seeking to improve the indigent defense system and advocating a civil right to counsel understand full well that the two rights are sides of the same coin, affecting the same communities. Lack of adequate defense to criminal charges can lead to lasting collateral consequences such as a criminal record that makes obtaining housing and employment difficult, while lack of counsel in an eviction or foreclosure proceeding can lead to homelessness and greater vulnerability to criminal charges. As we celebrate the anniversary of the *Gideon* decision and resolve to push for its full realization, these inextricable links should remind us how important it is, in fulfilling *Gideon*'s promise, not to forget people on the civil side of the courthouse.



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