



**Indifference**

**Frank Wu**



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We see people at their  
time of greatest need





-centered  
means that  
client's best  
ne it, at all

ns that we





We believe in client-centered representation. That means that we will represent the client's best interest, as they define it, at all times.

- o Being client centered means that we put the client's needs first.
- o As advocates for the indigent and attorneys, our first duty is to stand with our client. As such, we will always prioritize their needs above all else, as long as we can legally and ethically do so.
- o We respect our clients' autonomy and their right to make decisions about their lives. We will always give our best effort to ensure that every person we represent gets the fair trial that due process requires.



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# THE MEANING OF THE RIGHT TO COUNSEL

“Of all the rights that an accused person has, the right to representation by counsel is by far the most pervasive, for it affects his ability to assert any other rights he may have.”

*United States v. Cronin*, 466 U.S. 648 (1984)



JOHN  
ADAMS

“Counsel  
ought to be  
the very last  
thing an  
accused  
person  
should [be  
without] in a  
free country.”



## THE WARREN COURT

*Gideon v.  
Wainwright,*  
(1963)

Right to  
Counsel in  
Felonies

“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.”



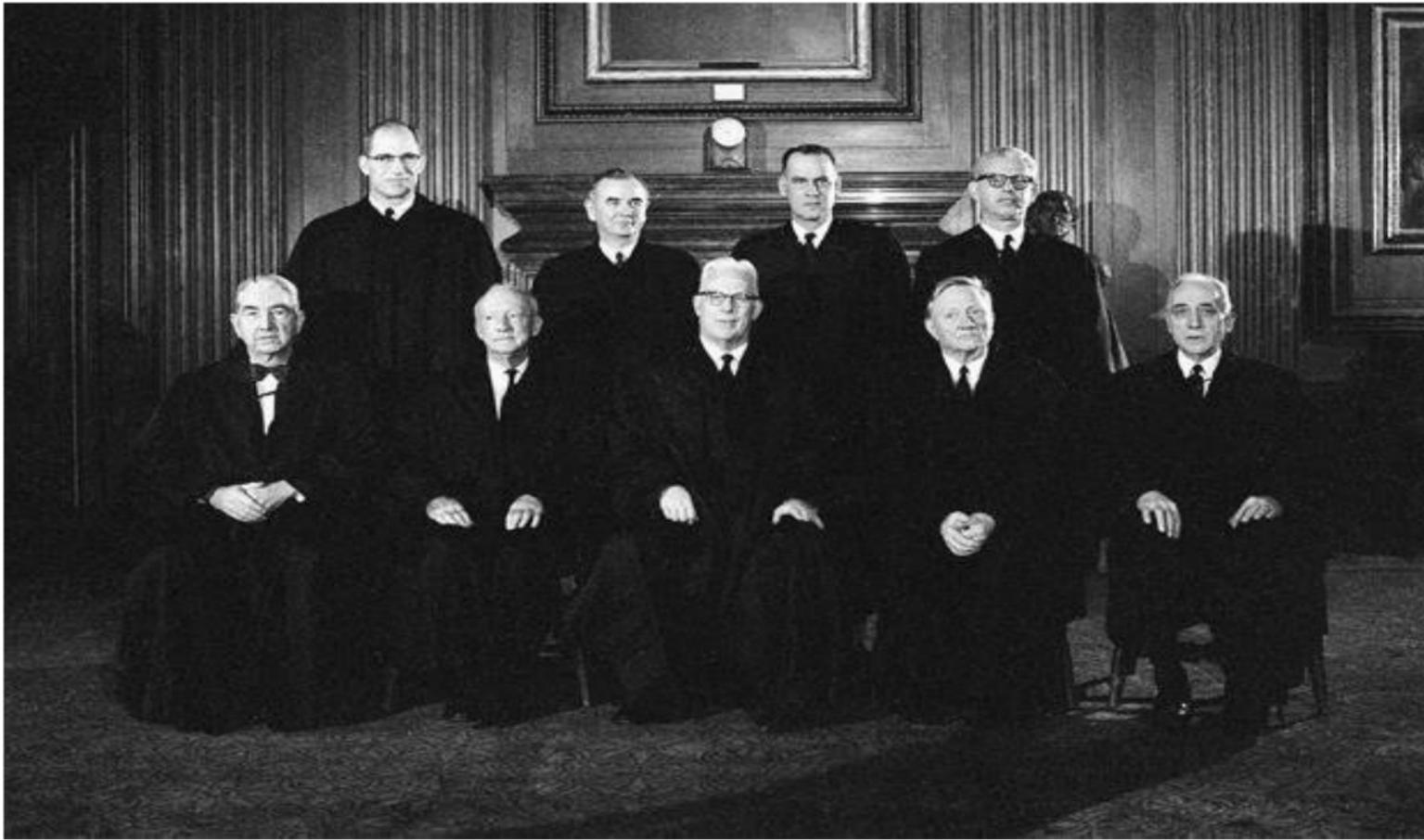


## THE WARREN COURT

*Douglas v.  
California,  
(1963)*

Right to  
Counsel on  
Direct  
Appeal

“There is lacking that equality demanded by the Fourteenth Amendment where the rich man, who appeals as of right, enjoys the benefit of counsel's examination into the record, research of the law, and marshalling of arguments on his behalf, while the indigent, (...) is forced to shift for



## THE WARREN COURT

*In re Gault,*  
(1967)

Right to  
Counsel for  
Juvenciles in  
Delinquency  
Proceedings

Justice Abe Fortas  
wrote, “The condition of  
being a boy does not justify  
being a kangaroo court.”





## THE BURGER COURT

*Coleman v.  
Alabama,  
(1970)*

Right to  
Counsel in  
Preliminary  
Hearings

Plainly the guiding hand of counsel  
at the preliminary hearing is  
essential to protect the indigent  
accused against an erroneous or  
improper prosecution.



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## THE BURGER COURT

*Argersinger  
v. Hamlin,  
(1972)*

Right to  
Counsel in  
Misdemeanor  
Cases

**“Absent a knowing and intelligent waiver,  
no person may be imprisoned for any  
offense, whether classified as petty,  
misdemeanor, or felony, unless he was  
represented by counsel at his trial.”**



## THE BURGER COURT

*US v. Cronin,*  
(1984)

Right to  
Effective  
System,  
meaningful  
counsel is a  
part of that  
system

“If no actual “Assistance” “for” the accused's “defence” is provided, then the constitutional guarantee has been violated. To hold otherwise could convert the appointment of counsel into a sham and nothing more than a formal compliance with the Constitution's requirement that an accused be given the assistance of counsel. The Constitution's guarantee of assistance of counsel cannot be satisfied by mere formal appointment.”





## THE REHNQUIST COURT

*Shelton v.  
Alabama,  
(2002)*

Right to  
Counsel even  
sentence to  
jail was  
suspended

The Court held that under *Argersinger*, a suspended sentence is still a “prison term imposed for the offense of conviction.” Therefore, a suspended sentence of actual imprisonment cannot actually be applied unless the defendant was given “the guiding hand of counsel” at the time of the conviction for the underlying charge.





THE  
ROBERTS  
COURT

*Rothgery v.  
Gillespie  
County, Tex.,  
554 U.S.  
191 (2008)*

“[A] criminal defendant’s initial appearance before a judicial officer, where he learns the charge against him and his liberty is subject to restriction, marks the start of adversary judicial proceedings that trigger attachment of the Sixth Amendment right to counsel.”



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THE  
ROBERTS  
COURT

*Padilla v.  
Kentucky,*  
30 U.S.  
1473 (2010)

“It is our responsibility under the Constitution to ensure that no criminal defendant—whether a citizen or not—is left to the ‘mercies of incompetent counsel.’ To satisfy this responsibility, we now hold that counsel must inform her client whether his plea carries a risk of deportation. Our longstanding Sixth Amendment precedents ... demand no less.”





THE  
ROBERTS  
COURT

*Missouri v.  
Frye*, 566  
U.S. \_\_\_  
(2012)

“The reality is that plea bargains have become so central to the administration of the criminal justice system that defense counsel have responsibilities in the plea bargain process, responsibilities that must be met to render the adequate assistance of counsel that the Sixth Amendment requires in the criminal process at critical stages.”



# WHEN THE RIGHT TO COUNSEL ATTACHES MISSISSIPPI LAW

**In Mississippi the right to counsel attaches” once the proceedings against the defendant reach the accusatory stage.”**

*Williamson v. State, 512 So.2d 868,876 (Miss. 1987)*

**The right to counsel will generally attach earlier under this “accusatory stage” test than under *Rothgery’s* “adverse judicial proceedings” test.**

*See Ormond v. State, 599 So 951,956 (1992)*

# WHEN THE RIGHT TO COUNSEL ATTACHES MISSISSIPPI LAW

Instead of relying solely on case law, Mississippi courts rely on the definition of “accusatory stage” provided in the Code:

**§99-1-7 provides that “a prosecution may be commenced (...) by the issuance of a warrant, or by binding over or recognizing the offender to compel his appearance to answer the offense, as well as by indictment or affidavit.”**

# MISS. CODE ANN. § 25-32-9

- “[A]ny person . . . arrested and charged with a felony, a misdemeanor or an act of delinquency,” shall be afforded the opportunity to sign an affidavit of indigency and be appointed a public defender.
- The indigent accused, furthermore, is statutorily entitled to have “representation available at *every critical stage of the proceedings against him* where a substantial right may be affected.” (Emphasis added.)
- The right to counsel extends to all courts of limited jurisdiction, noting that “[n]o person determined to be an indigent . . . shall be imprisoned as a result of a misdemeanor conviction unless he was represented by the public defender or waived the right to counsel.”

# WHAT ABOUT FINES AND FEES AND FAILURE TO PAY?





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