

By: Ellis

S.C.R. No. 28

CONCURRENT RESOLUTION

1           WHEREAS, Among the principles enshrined in the United States  
2 Constitution is the right to legal counsel; and

3           WHEREAS, Clarence Earl Gideon was charged with breaking into  
4 a Florida poolroom on June 3, 1961, and stealing coins from a  
5 cigarette machine; he asserted his innocence; and

6           WHEREAS, After Mr. Gideon's request for counsel was denied,  
7 the 51-year-old drifter with an eighth-grade education defended  
8 himself against the legal case presented by the state's prosecuting  
9 attorney; he was convicted of felony breaking and entering with  
10 intent to commit a misdemeanor and was sentenced to five years in  
11 state prison; and

12           WHEREAS, Mr. Gideon submitted a handwritten petition to the  
13 United States Supreme Court from his Florida prison cell, arguing  
14 that the United States Constitution does not allow poor people to be  
15 convicted and sent to prison without legal representation; 22 state  
16 attorneys general submitted a brief supporting him; and

17           WHEREAS, On March 18, 1963, the Supreme Court unanimously  
18 ruled that Mr. Gideon's trial and conviction without assistance of  
19 counsel was fundamentally unfair and violated the Sixth and  
20 Fourteenth amendments to the United States Constitution; it is an  
21 "obvious truth," the court stated, that "in our adversary system of  
22 criminal justice, any person haled into court, who is too poor to  
23 hire a lawyer, cannot be assured a fair trial unless counsel is  
24 provided for him"; and

1           WHEREAS, At his retrial, with the assistance of counsel,  
2 Clarence Earl Gideon was acquitted; and

3           WHEREAS, Forty years later, implementation of the right to  
4 counsel is extremely uneven across the nation, and people who  
5 cannot afford counsel are regularly denied their basic right to a  
6 qualified attorney, resulting in unjust, life-altering verdicts;  
7 public trust and confidence in criminal justice systems are shaken  
8 by exonerations of the innocent, revelations of overloaded and  
9 underfunded indigent defense systems, and a sense that the quality  
10 of justice people receive is determined by the amount of money they  
11 have; and

12           WHEREAS, Subsequent Supreme Court decisions have further  
13 expanded the states' obligation to provide counsel to people who  
14 cannot afford to hire a lawyer--most recently, in misdemeanor cases  
15 involving a suspended sentence, as indicated by *Alabama v. Shelton*,  
16 2002; this responsibility has been confirmed even as state budget  
17 revenues shrink and the pressure to cut expenditures grows; to  
18 guide states and localities, the American Bar Association issued in  
19 2002 a guide titled *Ten Principles of a Public Defense Delivery*  
20 *System*; and

21           WHEREAS, The right to counsel is an essential civil liberty,  
22 and this right has been repeatedly affirmed by the United States  
23 Supreme Court; now, therefore, be it

24           RESOLVED, That the 78th Legislature of the State of Texas  
25 hereby designate March 18, 2003, as Gideon Day and encourage  
26 officials in the state, including representatives of prosecution,  
27 public defense, and the courts, to commemorate this historic event

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1 and the importance of affording qualified counsel to those who lack  
2 the resources to hire an attorney, and that the State of Texas  
3 hereby rededicate itself to the principle of equal justice for all.