

Right to Effective Council

Grabber:

You've just been arrested and charged with a serious federal crime, like smuggling art across the border. You don't have the money to hire a lawyer. Tomorrow, you meet the court-appointed attorney who will help decide whether you walk free or spend years in prison. You get 10 minutes with them before your next hearing. What questions do you ask? What do you need from them? And how will you know if they're doing their job?

Would you trust someone you just met with your future?

What does it mean to have a "good lawyer"? What skills should they have?

What should happen to your case if your lawyer barely talks to you, or misses important facts?

Agenda

Grabber [01]

Identifying Traits of Effective Council [02]

Definition of Effective Counsel [03]

Questions [04]

Case Scenarios [05]

Moot Court [06]

What does it mean to have effective counsel for your defense?

1.
The 6th
Amendment

2.
The Strickland
Test

The 6th Amendment

“In all criminal prosecutions,
the accused shall enjoy
the right ... to have the
Assistance of Counsel
for his defence.”

The Sixth Amendment to the
Constitution of the United States

Discussion Question:

With regards to Counsel, does anyone see any weaknesses in this amendment?

Strickland v. Washington (1984)

The appropriate standard for ineffective assistance of counsel requires both that the defense attorney was objectively deficient AND that there was a reasonable probability that a competent attorney would have led to a different outcome.

Video: *Video:*

<https://www.youtube.com/watch?v=pabYq9l6M-s>



Scenarios

Apply standard from *Strickland*, then apply your own opinion to each scenario

Elijah was charged with car theft. His attorney mistakenly believed that a key piece of evidence could not be challenged and therefore never filed a motion to exclude it. The evidence was later shown to have been obtained in violation of Elijah's constitutional rights. Elijah was convicted.

Scenario 1

Maya was arrested and charged with selling vapes to minors. During her trial, her lawyer seemed to be unprepared to defend her case and didn't seem to know the details of Maya's arrest or any evidence to clear her of the crime. Her lawyer also was drunk and falling asleep during the trial. Maya was convicted.

Scenario 2

During Adam's trial for burglary, his public defender met with him only once for ten minutes before court. In court, the attorney did not challenge any of the prosecution's evidence or call any witnesses. Adam was convicted after a short deliberation.

Scenario 3

Ana was charged with drug possession. Her attorney met with her several times and encouraged her to plead guilty to avoid a trial but did not investigate whether the police search was legal. Ana accepted the plea deal and received probation.

Scenario 4

Devon was accused of public inebriation. His lawyer advised him to plead guilty without explaining the possible sentence or discussing other options. Devon later learned he could have qualified for a diversion program that would have avoided jail time

Scenario 5

Exit Ticket

Should it be the role of the government to provide effective counsel? Why or why not?

Moot Court:

1. What is a moot court? Why do law schools across the United States do moot courts as part of their legal training?

Moot Court Scenario

**Arguments That Effective Council
Was Provided**

**Arguments That Effective Council Was
Not Provided**

What remaining questions do you have about the case that are unanswered?

What is an Amicus Brief?

Definition of Amicus Briefs.

You have a packet with Amicus Briefs for this case. You may use these to help you reach your decision.

Amicus Briefs Questions

1. **Does the amicus brief from the American Civil Liberties Union help or hurt your assigned side? How so?**
2. **Does the amicus brief from the United States Attorney's Office help or hurt your assigned side? How so?**
3. **Does the amicus brief from the Innocent Project help or hurt your assigned side? How so?**
4. **Does the amicus brief from the Heritage Foundation help or hurt your assigned side? How so?**

Exit Ticket

Extended Exit Ticket and Homework (You will only pick one!)

- 1. If you were assigned to argue Mr. Ellis DID receive effective counsel, state the top 3-5 arguments which demonstrate this.**
- 2. If you were assigned to argue Mr. Ellis DID NOT receive effective counsel, state the top 3-5 arguments which demonstrate this**
- 3. If you were assigned to be a judge, develop TWO questions for each side**

Moot Court Format

1. Opening Argument [3 Minutes---Effective Counsel]
2. Opening Argument [3 Minutes---NOT Effective Counsel]
3. Effective Counsel Arguments [5 Minutes]
4. Questions for Effective Counsel Lawyers From SCOTUS [3 Minutes]
5. Not Effective Counsel Arguments [5 Minutes]
6. Questions for Not Effective Counsel Lawyers From SCOTUS [3 Minutes]
7. Closing Arguments for Effective Counsel [3 Minutes]
8. Closing Arguments for Ineffective Counsel [3 Minutes]
9. Time for Judges to Deliberate
10. All Justices Announce Their Rulings And Rationale To Whole Class

Closing Essay:

Write an essay in which you discuss the need for legal counsel when you are suspected or charged with a crime.