

Teacher Overview: *Richmond v. Keller*

Based on *Harrington v. Richter*

Case Overview: <https://www.oyez.org/cases/2010/09-587>

Decision: 8-0, Richter was NOT denied effective counsel. (Keagan Abstained)

Facts of the Case:

In 1994, Joshua Richter was accused of participating in a home invasion in Sacramento, California, which resulted in the shooting and death of one man and the injury of another. Richter and an associate were charged with murder and attempted murder. The prosecution argued that Richter and his friend broke into the home and shot the occupants, while the defense claimed Richter acted in self-defense after being shot at.

Richter was convicted of both charges and sentenced to life in prison.

Legal Issue:

Richter appealed his conviction, arguing that his Sixth Amendment right to effective counsel was violated. He claimed his attorney failed to properly investigate and present expert testimony that could have supported his claim of self-defense — specifically, forensic evidence that could explain the blood pattern and bullet trajectory.

The Strickland Test:

To prove ineffective assistance of counsel under *Strickland v. Washington*, a defendant must show:

1. Deficient Performance – That the attorney's representation fell below an objective standard of reasonableness.
2. Prejudice – That the poor performance affected the outcome of the trial (i.e., there's a reasonable probability the result would have been different).

Why did *Harrington v. Richter* fail the Strickland Test?

1. No Clearly Deficient Performance
 - The defense attorney chose not to call forensic experts, but the Court said that doesn't mean the representation was deficient.
 - The Court emphasized that strategic decisions by lawyers, especially about which experts to use or not use, are usually protected from being second-guessed.
 - The attorney could have reasonably believed that calling experts might backfire or complicate the defense's argument of self-defense.
2. No Clear Prejudice
 - The Court said even if the defense had presented forensic evidence, there was no reasonable probability that it would have changed the verdict.

- The prosecution's case was strong, including witness testimony and evidence suggesting the shooting was not self-defense.
- Therefore, Richter couldn't show that the lack of forensic experts harmed his defense enough to undermine confidence in the outcome.

Discussion Questions for Students to Consider While Conducting Case Briefs

1. What does the sixth amendment require from a defense attorney in a criminal trial?
2. Is failing to call a forensic expert automatically ineffective, or does it depend on the case?
3. Should courts accept strategy as a justification even if the defense barely contested the main evidence?
4. If you were on the jury, would the expert's affidavit have made you rethink the case?

Potential Answers:

1. *Gideon v. Wainwright* affirms right to counsel, *Strickland v. Washington* established the Strickland test to determine whether or not counsel was effective.
2. It depends on the case. According to the internal memo, the trial attorney had determined that it was best strategy to not present a forensic expert. Since this was due to strategy, the Court ruled this was not ineffective counsel.
3. Reasoning behind strategy should be considered.
4. Answers will vary