

Juvenile Training Immersion Program (JTIP) Lesson 2 – Role of Juvenile Defense Counsel

BIBLIOGRAPHY

CASES

Missouri v. Frye, _ US_, 132 S.Ct. 1399 (2012)

Lafler v. Cooper, _US_, 132 S.Ct. 1376 (2012)

In these two companion cases decided by the United States Supreme Court in March 2012, the Court ruled that defendants have a constitutional right to effective assistance of counsel in plea bargains.

In *Frye*, the Court held that plea negotiations and/or the entry of a guilty plea are “critical stages” of the criminal proceedings and are protected by the Sixth Amendment right to effective assistance of counsel. In this case, the defendant’s attorney failed to communicate a plea offer to the defendant, an offer that ultimately lapsed. The Court found that failure to communicate the offer to be ineffective assistance of counsel. The fact that he went on to have a fair trial did not cure the ineffectiveness at the earlier stage.

In *Lafler*, the Court held that where counsel’s ineffective advice led to the rejection of a plea offer (in this case, providing advice that was legally incorrect), and where the prejudice alleged is having to stand trial, a defendant must show that but for the ineffective advice of counsel there is a reasonable probability that the defendant would have accepted the offer originally, that the prosecutor would not have withdrawn the offer, and that the court would have accepted its terms which would have been less severe than the actual judgment and sentence imposed.

In the Matter of the Dependency of MSR and TSR, 271 P.3d 234 (Wash. 2012) (en banc)

In a termination of parental rights proceeding, the Supreme Court of Washington held “children whose parents are subject to dependency and termination proceedings have vital liberty interests at stake and may constitutionally be entitled to counsel, if necessary to protect those interests.” The court clarified that the determination of whether an individual child is entitled to counsel must be decided on a case by case basis.

State v. A.N.J., 225 P.3d 956 (Wash. 2010)

The juvenile defendant pleaded guilty to first-degree child molestation but later filed a motion to withdraw the plea. The youth contended that his court-appointed counsel was ineffective because counsel failed to adequately investigate the case; did not consult with experts; did not fully inform the client of the consequences of his plea; and did not form a confidential relationship with the client independent of his parents. The client also argued that the trial judge did not adequately confirm that he understood the elements of the crime. As a result, the youth claimed that his plea was not knowing, voluntary and intelligent, and that he should have been allowed to withdraw it. The Supreme Court of Washington held that defense counsel was ineffective by failing to conduct meaningful investigation of the case before proceeding to a guilty plea. The Court also held that the youth’s plea was involuntary because he was misinformed that a juvenile sex conviction could be removed from his record; moreover, the plea was involuntary absent evidence that the youth understood that any contact he had with the victim had to be for sexual gratification to constitute the crime with which he was charged. The case was reversed and remanded.

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See also:

- *State v. Osborne*, 102 Wash.2d 87, 684 P.2d 683 (1984) (counsel has the duty to relay plea offers to clients and assist in evaluating those offers);
- *State v. Longacre*, 155 Wash.2d 723, 122 P.3d 710 (2005) (Failure to effectively communicate plea offers and sentencing implications may result in disciplinary action);
- *State v. Robinson*, 172 Wash.2d 783, 263 P.3d 1233 (2011) & *State v. Mendoza*, 157 Wash.2d 582, 141 P.3d 49 (2006) (a guilty plea must be knowing, voluntary and intelligent and counsel’s failure to provide correct advice regarding sentencing consequences may result in withdrawal of guilty plea).

In re K.M., 173 P.3d 1279 (Utah 2007)

The juvenile pleaded guilty to one count of child abuse homicide, a felony, and later moved to withdraw her plea. After the trial court denied the motion, the Supreme Court of Utah reversed and allowed her to vacate the plea. The Utah Supreme Court chided the Juvenile Court for not engaging KM in a meaningful dialogue, and assuring that she understood the nature and elements of the offense she was alleged to have committed. The court found her admission was not knowingly or voluntarily made. The Supreme Court discussed the developmental differences between juveniles and adults and the extra care that must be taken by the Juvenile Court judge when accepting an admission/guilty plea.

In re Gault, 387 U.S. 1 (1967)

The United States Supreme Court held that a youth has the right to notice of charges, to counsel, to confrontation and cross-examination of witnesses and the privilege against self-incrimination. The petition to the Supreme Court sought the release of Gerald Francis Gault, the appellants’ 15-year-old son, who had been committed as a juvenile delinquent to the State Industrial School by the Juvenile Court of Gila County, Arizona. The Supreme Court stated, “The condition of being a boy does not justify a kangaroo court,” and reversed the judgment of the Arizona Supreme Court, remanding the case for further proceedings.

Pate v. Robinson, 383 U.S. 375 (1966)

The respondent was convicted of murdering his common-law wife and given a life sentence. Defense counsel argued that the respondent was insane at the time of the incident and was not competent to stand trial. The trial court rejected contentions as to the respondent’s sanity, which was challenged on appeal as a deprivation of due process of law under the Fourteenth Amendment. The State Supreme Court affirmed the conviction and the U.S. Supreme Court denied certiorari. The District Court denied respondent's subsequently filed petition for writ of habeas corpus. The Court of Appeals reversed, holding that the unduly hurried trial did not provide a fair opportunity for development of facts on the insanity issues, and remanded the case to the District Court for a limited hearing as to the sanity of respondent at the time of the homicide and as to whether he was constitutionally entitled to a hearing upon his competence to stand trial. The U.S. Supreme Court held that there was enough evidence to raise sufficient doubt as to the respondent’s competence to stand trial and he was deprived of due process of the law under the Fourteenth Amendment by the trial court’s failure to give him a hearing on the issue. Too much time had passed to determine the accused’s competence to stand trial; therefore he was ordered to be released unless the State could give him a new trial within a reasonable time. The case was affirmed in part and remanded.

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Dusky v. United States, 362 U.S. 402 (1960) (per curiam)

The U.S. Supreme Court held that the record for the petitioner’s case did not sufficiently support the findings regarding the petitioner’s competency to stand trial. The conviction was reversed and the case was remanded to the District Court for a hearing to determine the petitioner’s competency to stand trial. The petitioner was to receive a new trial if found competent.

In re Fleming, 142 Wash.2d 853, 16 P.3d 610 (2001)

Washington law affords greater protection than federal law with regards to competency and is governed by Rev. Code Wash. § 10.77. “No incompetent person may be tried, convicted, or sentenced for the commission of an offense so long as such incapacity continues.” 10.77.050. The two-part test for legal competency for a criminal defendant includes whether the defendant understands the nature of the charges and is capable of assisting in his defense. The statutory procedure is mandatory; once competency issues are raised, a judicial determination of competency cannot be waived, and a person found to be incompetent cannot enter a plea of guilty or stand trial.

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