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Right to Counsel Paper Article
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Right to Counsel Paper Article
In the United States of America, when a criminal placed under arrest and charged with a criminal offense; the criminal then granted by the courts the right to have counsel to assist them in their criminal defense in court. The law also allows any criminal that cannot afford a lawyer; the court will then assign legal counsel to that criminal. In today's society, we must understand the rights that afforded to us by the United States Constitution. It extremely crucial to understand the legal procedures the criminal procedures and the development of such law to understand the role of the attorneys, when it applies to the right to counsel and the self-representation rule. Back in the 1932, the United States Supreme Court began to clarify the legal definition of right to counsel after a criminal case that occurred earlier in 1931 in the State of Alabama. According to court records, it all begins in the case of Powell versus Alabama that involved a large group of adolescence. Of these adolescences, it appears that nine youth males were black that were fighting with several of the other male adolescences that were white over a false accusation of raping two youth females that were white. The United States Supreme Court had taken up this case for a judicial review to ensure everything done right in the case, if not the court will then issue it ruling to regulate the actions that taken in the criminal case. In the case of Powell versus Alabama, the court has determined that in this criminal case, the Alabama Supreme Court had made a mistake in its ruling in this case. The United States Supreme Court had determined that the adolescences that involved in this criminal case given an reasonable amount of time to talk to their family members, which were living outside of the state of Alabama to

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help determine legal counsel to assist them in their criminal case. According to Justice George Sutherland of the United States Supreme Court, it was said " It is hardly necessary to say that, the right to counsel being conceded a defendant should be afforded a reasonable opportunity to obtain counsel of his own choice" (Zalman, 2011, p. 15). It was also said that in the case of Powell versus Alabama that this right to counsel not done in this case. According to Justice Sutherland, by " denying due process during the criminal case, that held before the Alabama Supreme Court; even knowing that the state of Alabama does not require every indigent defendant with legal counsel, it had provided guidance in this cases that involved exceptional circumstances that existed in this case of Powell versus Alabama" (Zalman, 2011, p. 15). An significant event occurred after a case heard by the United States Supreme Court in 1963, the case of Gideon versus Wainwright the courts had decided to combine two fundamental parts of the Sixth and Fourteenth Amendment of the United States of America together to ensure that any criminal defendant that is unable to obtain legal advice, the court will assigned counsel to these that cannot provide legal counsel as a requisite of the due process of law. The law is also in place to ensure that these " that were incapable adequately of making his or her own legal defense due to of ignorance, feeble mindedness, illiteracy, or the like it is the responsibility of the court, whether requested or not, to assign counsel for him as a necessary requisite of due process of law" (Waksman, D. M., & Goodman, D. J., 2010, p. 41). To understand the entire criminal system behind the right to counsel, it founded to be an important part of the critical stage doctrine that included part of the Sixth and Fourteenth amendment. The United States Supreme court wants to ensure that a defendant

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understand the critical stages in the criminal proceeding and its procedures. Therefore, the court ruled to be fair, it should ensure that every person afforded legal counsel at any part of the criminal proceedings and trial. Therefore, the individual can seek legal advice to help make their legal defense. The courts want to ensure that the defendant given a fair trial. When it comes to criminal procedures, this is when this gets confusing because if you are unaware of the procedures and the rights to retain counsel, any person could accidentally lose, surrender these rights. However, the United States Supreme Court had another issue that brought up in the case of Brewer versus Williams that concurred in 1976. It determined by the court; the defendants in question given counsel at or after the criminal proceeding had begun. The court also ruled that the right to counsel should be afforded during " post-conviction and other processes such as sentencing, deferred sentencing, probation and parole revocation, prison disciplinary hearings, psychiatric expert witness, summary court-martial, juvenile delinquency trials, and appeals" (Waksman, D. M., & Goodman, D. J., 2010, p. 49). According to our legal system, another right that afforded to a defendant is the right to self-representation. However, every person should proceed with caution since this allows the defendant to represent him or herself in their own criminal proceedings. Once the defendant waives his or her rights, it can be a difficult process to undo everything that already done. However, the judge in the case should advise the defendant, when the defendant chooses to continue down this course without appointed counsel. This is why most judges will appoint counsel to only be available to act as a standby counsel if the defendant is unable to begin in representing him or herself. There is some pro and cons in doing this for example, Angela Davis, <https://assignbuster.com/right-to-counsel-paper-article-law-general-essay/>

who was facing a charge of abetting a murder of a judge, this person acquitted. However, in the case of Jack Kevorkian, he now faces jail time. If this defendant proceeded with legal counsel after being assisted by legal counsel during his three acquittals, he would most likely have another acquittal. However, when it comes to self-representation in court, this is why it extremely crucial to ensure that the judge explains to the defendant and the jury of everyone roles if in case the defendant chooses to represent him or herself in court. The judge should also make sure that the defendant knowable in the area of the criminal law and its procedures. The judge should ask questions to ensure that the defendant is aware of this case and it procedures in this case. This will help to avoid costly delays, appeals and the most a mistrial. Therefore, the courts had also setup in placed if the defendant does want to represent themselves in court; the court will automatically assign a standby counsel to assist the defendant. The judge will make it clear to the defendant the position of the standby counsel and their duties in this case. The defendant will also be advice about the roles of the attorneys in this case. The defendant will be explaining the duties of the defense attorney and the prosecution attorney. The role of the defense attorney is to ensure that the accused rights protected and is aware of all proceeding that are against the defendant. The defendant should be made aware the path the lawyer chosen to pursue in this case, known as legal strategic. The defendant should serve in their defense in getting the lawyer up to speed. The attorney granted the authority to question, cross-examine, file motions, introduce evidence, and choose which jurors that will be hearing the case. The lawyer also held by law to advise their clients of their legal rights, obligations and how the legal system works. When it comes to right to <https://assignbuster.com/right-to-counsel-paper-article-law-general-essay/>

counsel, it determined that it a particularly fundamental right that afforded to the everyday citizen in the United States of America. It extremely noteworthy that every person is aware how these rights works and how to use them in case if something happens. People should be aware of this position and choose wisely because either choice can cost you time in jail or give you freedom. By consent to have attorney at your side, this allows the defendant the opportunity to have someone there that knows the legal procedures, know the law, and how things should be done in court. The defendant will also be sure that his constitutional rights protected and that he is getting a fair trial.