

Texas Fair Defense Project

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CCA AFFIRMS THAT CRIMINAL CONVICTION IS INVALID IF JUDGE FAILS TO PROPERLY ADVISE DEFENDANT OF RIGHT TO COUNSEL

In an important victory for poor people accused of crime, the Texas Court of Criminal Appeals (CCA) today affirmed that a criminal conviction must be reversed if an unrepresented defendant does not validly waive the right to appointed counsel.

The CCA ruled in a unanimous opinion that denial of a poor defendant's right to appointed counsel results in criminal proceedings that are "fundamentally unfair and unreliable." Accordingly, failure to obtain a valid waiver of the right to counsel is not subject to harmless error analysis but instead requires automatic reversal of the resulting conviction.

Janet Lorraine Williams was charged with a misdemeanor crime in Brazoria County and could not afford to hire a lawyer. When Ms. Williams appeared at her trial without a lawyer, the trial judge never told her she could apply for a court-appointed lawyer or inquired into her ability to hire counsel. The jury found Ms. Williams guilty and she was sentenced to 30 days in jail and a \$1 fine.

In affirming the ruling of the Fourteenth Court of Appeals in Houston, the CCA reasoned that harmless error review of a conviction obtained without counsel or a valid waiver of the right to counsel is inappropriate because a reviewing court would have to speculate on what an attorney might have done if appointed to represent the defendant. "In this case, there is simply no way to discern what the outcome would have been had Williams been represented by counsel."

"The Court of Criminal Appeals made a strong statement that when courts fail to tell defendants they have the right to appointed counsel, and fail to inquire into defendants' ability to hire counsel, invalid convictions will result," said Harry Williams IV of the Texas Fair Defense Project (TFDP). TFDP and Angleton lawyer Perry Stevens represented Ms. Williams before the Court of Criminal Appeals.

Texas Appleseed, represented by Andrews Kurth LLP, submitted an amicus brief in support of Ms. Williams.

The opinion in *Williams v. State* (PD-1245-06) is available at <http://www.cca.courts.state.tx.us/opinions/HTMLOpinionInfo.asp?OpinionID=16379>. Additional information about the *Williams* case is available at <http://www.texasfairdefenseproject.org>.