

# My BLAWG

By: Eric Smalley

Many lawyers - which I am not - write articles called, "BLAWGs". And even though I am not a lawyer, my study in the legal system has opened my eyes to so much about law. For example: protecting your Constitutional Rights. Whether you are incarcerated or out in the free-world, your Constitutional Rights are very life saving. Don't be afraid to use them.

If you are at jail or in prison, the Law Library is your friend. The Law Library will help you find anything you need for your case or any other matter you're trying to settle. Prison Law Libraries has several Law Books to help you find research. There are even books that can get you the case law you need to help you even further. Of course, you have the Law Library Clerks. Inmates they may be, but they are there to guide you. Don't be afraid to ask for help. In my opinion, there are no dumb questions.

Speaking of "Case Law", I would like to go over a few to help those incarcerated with some case law to hopefully assist those who need it. To start off, lets look at *Miranda v. Arizona* 384 U.S. 436 (1966). This case law brought about what is now known as the "Miranda Rights". This is what the arresting officer **MUST** recite to you before questioning. If questioning starts before the Miranda Rights are read to you, your own confession will be <sup>potentially</sup> thrown out of court. ~~and you are~~

Next, if you were neglected of your 6th Amendment to right of counsel, there are two case laws that are used the most that will

help you. The first case law is, *Strickland v. Washington* 466 U.S. 668 80 L.Ed.2d 674 (1984). This case law deals with the ineffectiveness assistance of counsel. There are two topics this case law mentions that the judge will look for: 1) "that the counsel's performance was deficient and 2) that the deficient performance prejudiced the defense by showing that counsel's errors were so serious as to deprive defendant of a fair trial, a trial whose result is liable." This is called the "Strickland Test". And your claims must pass.

The next case law is, *United States v. Cronin* <sup>466 U.S.</sup> ~~648~~ ~~648~~ (1984). This is known as the "Cronin Standard". Here, your ineffectiveness claim has to meet 3 standards: 1) "prejudice may be presumed if you were completely denied counsel during a critical stage of your trial; 2) ... if your lawyer entirely fails to subject the prosecution's case to meaningful adversarial testing; 3) ... if the circumstances of your trial made it highly unlikely that any lawyer could have provided effective assistance to you." With these two cases at your fingertips, you could get your case overturned or a retrial.

To strengthen your ineffectiveness claim, try to find case laws that is within your Circuit. For example: I live in Virginia. So I would look for case laws that is in the 4th Circuit. Each Circuit - which there are ~~11~~ eleven - has several states. So, find out what circuit you're in so you can effectively strengthen your case.

One important thing you **NEED TO DO** is: Know your State laws and statutes. Knowing these will basically inform you all you need to know regarding your case and what you're being

charged with. If there are words you don't understand, I recommend getting "Merriam-Webster's Dictionary of Law." You'll find everything you need in this Law Dictionary. The main thing for this point is research, research, research. Don't sit around and let the legal system bury you. You have the right to defend yourself in the court of law. Keep your attorney informed of your findings and have your attorney keep you informed of his/her findings ~~to~~ pertaining your case. Remember! When it comes to you and your lawyer, communication is KEY!

Another helpful tool for inmates is the "Jailhouse Lawyer Handbook". You can obtain this by law library, purchase it from the internet or get it printed for free from the internet. It's a great resource tool that provides helpful information. This is actually how I found the case laws I mentioned earlier. The Jailhouse Lawyer Handbook can help you with your case or file lawsuits against your jail or prison facility. Find info or books like this and you'll learn how to pursue legal issues. You'll gain great knowledge in law as you study.

Because I have ~~enjoyed~~ <sup>really</sup> enjoyed ~~writing~~ <sup>writing</sup> this for whoever does read this, I want to end by providing some more case laws with a brief description of what the case law is for. So, as I end this, I hope this has been very helpful and useful to you. Please enjoy these case laws and may they be of some help to you.

## Case Laws For Archive Readers

- 1) Ake v. Oklahoma 470 U.S. 68 (1985) - due process requires that a state provide access to a psychiatrist's assistance on this issue, if a ~~def~~ defendant cannot otherwise afford one.
- 2) United States v. Young 470 U.S. 1 105 S.Ct. 1038 84 L.Ed.2d 1 (1985) - Prosecutorial Misconduct
- 3) Murray v. Scott 253 F.3d 1308 (11th Cir. 2001) - Judge's recusal from case (see also 28 U.S.C. §455 on the standards of trial judge).

By The Way, case laws always has other case laws to help you learn more about your case in many ways. So don't just stop at one case law.