Sixth Amendment

By: Shasta Villari
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The Sixth Amendment of the Constitution states that, “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.” There are seven clauses in this which are the right to a speedy trial, a public trial, an impartial jury, notice of accusation, confrontation, compulsory process, and counsel.

Speedy Trial

The Sixth Amendment guarantees all persons accused of criminal wrongdoing the right to a speedy trial. This clause has two purposes. One reason for this clause is to prevent the defendant from staying incarcerated for long periods of time before their trial which could cause public scrutiny, interrupted employment, financial losses, family problems, and a bad reputation to innocent persons. The other reason for this clause is to ensure a defendant's right to a fair trial because if a trial is postponed for a long period of time witnesses may disappear, people may not remember important details, and evidence may be lost or destroyed.

*Barker v. Wingo*, 407 U.S. 514 is a landmark case that pertains to the Sixth Amendment right of a speedy trial. This case set the guidelines for determining whether the right of a speedy trial had been violated. In *Barker v. Wingo*, 407 U.S. 514, Baker moved to have his conviction dismissed for lack of prosecution on the grounds that his right to a speedy trial had been violated. In September 1958 the petitioner and a second suspect was indicted on murder charges. In June,
1959, the petitioner posted a $5,000 bond and obtained his release after having spent 10 months in jail. The petitioner was not brought to trial for murder until more than five years after he had been arrested, during which time the prosecution obtained 16 continuances, initially for the purpose of first trying petitioner's alleged accomplice so that his testimony, if conviction resulted, would be available at petitioner's trial. Before the accomplice was finally convicted, he was tried six times. The petitioner had made no objection to the continuances until the 12th continuance which was three and one-half years after he was arrested. When the state moved for the twelfth time to continue his case, in February 1962, he filed a motion to dismiss the indictment, which was denied. Following the granting of two other continuances, to which the petitioner did not object, his trial was set for March 1963, the first term of court following the other suspect's final conviction. On the day of trial, the state again moved for a continuance, due to the illness of the ex-sheriff who was the chief investigating officer in the case. The petitioner objected to this continuance but was unsuccessful. An additional continuance was granted for the same reason. The trial was then set for October 1963 at which time the petitioner moved to dismiss the indictment on the ground that his right to a speedy trial had been denied. His motion was denied. The petitioner was convicted and given a life sentence. The Supreme Court found that a defendant's constitutional right to a speedy trial cannot be established by any inflexible rule, but can be determined only on an *ad hoc* balancing basis in which the conduct of the prosecution and that of the defendant are weighed. The court should assess such factors as the length of and reason for the delay, the defendant's assertion of his right, and prejudice to the defendant. In this case, the lack of any serious prejudice to petitioner and the fact, as disclosed by the record, that he did not want a speedy trial outweigh opposing considerations, and compel the conclusion that petitioner was not deprived of his due process right to a speedy trial. The
decision of the lower court was affirmed. The test developed in the *Baker* case has four criteria in determining if there was unreasonable delay. The four criteria are: the length of the delay, the reasons for the delay, the point at which defendant asserts their right, and whether the delay prejudiced the defendant.

**Public Trial**

This clause is put into place so that public criminal proceedings would help prevent spiteful prosecutions, corrupt or easily influenced judges, and misleading witnesses, and to encourage citizens to come forward with relevant information. There are exclusions to this clause. The first is that if the trial involves a child who is young and immature who is being asked to testify about an emotionally charged issue then that part of the trial will be conducted privately. The second exclusion is when the trial evolves martial and juvenile delinquency issues it may be held in a closed session. The third exclusion is that although friends and relatives of a defendant are initially required to be permitted to attend trial, they may be excluded if they disrupt the proceedings. The fourth exclusion is if the case generates tremendous public interest which cause there to not be enough seating in the courtroom, then the court may create a lottery system that randomly assign citizens and media members a seat in the courtroom for each day of trial. The fifth exclusion is if this clause conflicts with other amendments of the constitution, then the court may make the trial private.

**Impartial Jury**

This clause was put into place in order to ensure that defendants would receive a jury that represents a fair cross section of the community that is not racially prejudice, and does not
consider any media coverage or outside information before or during trial when evaluating the
guilt or innocence of the defendant.

**Notice of Accusation**

This clause guarantees defendants the right to be informed of the nature and cause of the accusation against them. There are two elements to this clause. The first is that, defendants must receive notice of any criminal accusations charged against them. The second is that, a defendant may not be tried, convicted, or sentenced for a crime that materially varies from the crime set forth in the formal charge.

**Confrontation**

This clause assures defendants the right to be present during all critical stages of trial, allowing them to hear the evidence offered by the prosecution, to consult with their attorneys, and otherwise to participate in their defense. This clause also guarantees defendants the right to face witnesses in person and to cross-examination them. There are some exceptions to this clause. One exception is that if the witness is a child who would be traumatized by testifying in front of a defendant, the court may videotape the child's testimony outside the presence of the defendant and later replay the tape during trial, however, counsel for both the prosecution and defense must be present during the videotaped testimony. A second case that pertains to the Sixth Amendment rights is Crawford V Washington, 541 U.S. 36 (2004). This case deals with the confrontation rights of the Sixth Amendment. In this case the Petitioner claims that the court erred in allowing the State to introduce a tape recording and accompanying transcript of the police’s custodial examination of his potential accomplice, who was unavailable to testify at
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trial. On August 5, 1999, Kenneth Lee was stabbed at his apartment. Police arrested petitioner later that night. Petitioner eventually confessed that he and Sylvia had gone in search of Lee because he was upset over an earlier incident in which Lee had tried to rape her. The two had found Lee at his apartment, and a fight ensued in which Lee was stabbed in the torso and petitioner's hand was cut. Sylvia generally corroborated petitioner's story about the events leading up to the fight, but her account of the fight itself was arguably different—particularly with respect to whether Lee had drawn a weapon before petitioner assaulted him. The petitioner was charged with assault and attempted murder. At trial, he claimed self-defense. Sylvia did not testify because of the state marital privilege, which generally bars a spouse from testifying without the other spouse's consent. In Washington, this privilege does not extend to a spouse's out-of-court statements admissible under a hearsay exception, so the State introduced Sylvia's tape-recorded statements as evidence that the stabbing was not in self-defense. The United States Supreme Court found that because the State admitted Sylvia’s testimonial statement against the petitioner, despite the fact that he had no opportunity to cross-examine her. That alone is sufficient to make out a violation of the Sixth Amendment. Where testimonial statements are at issue, the only indicium of reliability sufficient to satisfy constitutional demands is the one the Constitution actually prescribes: confrontation. The judgment of the lower court was reversed, and the case is remanded for further proceedings. This case was important because it sets guidelines for the admission and reliability of evidence.

**Compulsory process**

This clause is in place to give defendants the right to subpoena any witness including themselves who has any information favorable to the defense to testify for them. The court may
not take any action which may undermine the testimony of a witness who has been subpoenaed by the defense.

**Counsel**

This clause is put in place to ensure defendants a right to counsel when the government initiates adversarial criminal proceedings. This clause only guarantees the defendants right to counsel during the "critical stages" of the prosecution for any case involving a felony offense or any case in which the defendant is actually incarcerated for any length of time. If the defendant is unable to afford an attorney the judge will appoint one to them. A court appointed attorney is not required to file any appeal of the courts decisions if the attorney believes it to be impractical. The court may replace an attorney if they find that a conflict of interests exists which causes the client to not be sufficiently represented. All defendants have a right to decline the representation of counsel and proceed on their own behalf.

**Conclusion**

The Sixth Amendment provides rules and regulations for our court systems, assuring our rights as American citizens.
References