

# **Article: Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel is Most Needed (Engler 2009)**



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## Abstract

Over the past decade, the phenomenon of self-representation in civil cases has led to the development of programs designed to facilitate self-representation. A revitalized movement seeking to establish a civil right to counsel has emerged (civil Gideon, a civil right to counsel based on *Gideon v. Wainwright*), pressing for the expansion of the availability of counsel for the poor. What are the scenarios in which

full representation by counsel is most needed? Part of this question involves policy choices as to the importance of what is at stake in the proceeding. Part of this question, however, is a research question: what does the data reveal about the characteristics of litigants, cases, courts, or agencies that help identify the cases in which the presence of counsel is most likely to impact the outcome of the case? Many reports explore the problems facing those without counsel in “poor people’s courts,” handling family, housing, and consumer cases. Other reports shed light on the impact of assistance programs short of full representation by counsel. This paper assesses what we know from existing reports about the correlation between representation and success rates in court. Notwithstanding methodological differences, reports consistently show that representation is a significant variable affecting a claimant’s chances for success in eviction, custody, and debt collection cases, as well as administrative proceedings. With programs facilitating self-representation, litigants and court personnel report high levels of satisfaction; the programs’ impact on case outcomes is less clear. This paper also identifies two crucial conclusions regarding what we know about representation – the importance of power, and the importance of having not just any advocate, but a skilled advocate with knowledge and expertise relevant to the proceeding.

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