
<i>Missouri</i> v. <i>Frye</i> and <i>Lafler</i> v. <i>Cooper</i>: Supreme Court Expands Sixth Amendment Right to Effective Counsel at Plea Bargain Stage

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On March 21, 2012, the Supreme Court issued a pair of decisions in *Missouri v. Frye* and *Lafler v. Cooper* that greatly expand the Sixth Amendment right to the effective assistance of counsel at the plea bargain stage. The Court held that the right to effective assistance of counsel extends not only to those situations in which a criminal defendant accepts a plea bargain and thus gives up his right to trial, as previously held in *Hill v. Lockhart* and *Padilla v. Kentucky*, but also to situations in which plea offers are rejected or allowed to lapse. Finding that plea bargaining is a “critical stage” of the criminal process regardless of whether a plea offer is accepted or rejected, the Court applied the test from *Strickland v. Washington*, governing ineffective assistance claims at the plea stage, to two cases in which plea offers had either been rejected or allowed to lapse, leading to later convictions and harsher penalties for both defendants.

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