



The Case of the Shackled Convict

The Facts of *Brown v. Davenport*:

In 2008, Ervine Lee Davenport was put on trial for first degree murder by a Michigan court. During his trial, he was visibly shackled by his wrists, waist, and ankles. He was convicted by the jury and sentenced to life in prison without the possibility of parole.

Davenport's lawyers appealed the decision to the Michigan Court of Appeals. There, the State's lawyers admitted to the court that keeping Davenport in shackles without justification was unconstitutional. The shackles presented a violation of Davenport's [Sixth Amendment](#) right to an impartial jury because the shackles suggested that Davenport was guilty and not presumed innocent as his due process rights required. However, the State argued that despite this constitutional trial error of keeping him in shackles, it was "harmless beyond a reasonable doubt," a test created as a result of *Chapman v California* in 1967.



Harmless beyond a reasonable doubt" means that there is no reasonable possibility that without this constitutional trial error, a jury would find someone not guilty of the crime of which they are accused given the evidence presented at trial. The Michigan Court of Appeals agreed with the State and Davenport's lawyers then appealed to the Michigan Supreme Court, which returned Davenport's case back to the trial court for reconsideration.

On [remand](#) (reconsideration), the trial court determined that despite some jurors seeing Davenport in shackles, this error was "harmless beyond a reasonable doubt." This time, both the Michigan Court of Appeals and the Michigan Supreme Court agreed with the trial court's decision.

Because this case involves federal constitutional protections, Davenport was eligible to challenge his state conviction in federal court through a [habeas corpus petition](#).

On appeal to the U.S. Court of Appeals for the Sixth Circuit, the court found that Davenport's [Sixth Amendment](#) right to an impartial jury trial was violated because the constitutional trial error of keeping him shackled without justification could have biased the jury under the "substantial and injurious effect" test, or [Brecht test](#), created in 1993 under *Brecht v. Abrahamson*. Mike Brown, the interim warden of the prison where Davenport is incarcerated, appealed to the U.S. Supreme Court.

[Oral argument](#) in this case was presented to U.S. Supreme Court on October 5, 2021. The question that Warden Brown is asking the justices to answer is "may a federal habeas court grant relief based solely on its conclusion that the [Brecht test](#) is satisfied...or must the court also find that the state court's *Chapman* application was unreasonable?"

Federal Statute and Supreme Court Precedent Used in this Case:

Note: The Michigan Court evaluated Davenport's constitutional claims using the finding in *Chapman v. California*. The U.S. Court of Appeals for the Sixth Circuit applied the finding in *Brecht v. Abrahamson*.

[Chapman v. California](#) (1967): The Court ruled that a constitutional error can be insignificant enough to be held harmless beyond a reasonable doubt, meaning that there is no reasonable possibility a jury would find in favor of a defendant had the constitutional error not occurred.

[Brecht v. Abrahamson](#) (1993): The Court ruled that in habeas corpus relief cases, the preferred test to determine the necessity of the writ is the "substantial and injurious effect" test and not the "beyond a reasonable doubt" test. This means that a defendant must show actual prejudice and that the constitutional error substantially influenced the jury in determining its verdict.

[Antiterrorism and Effective Death Penalty Act of 1996](#): State prisoners may not obtain habeas corpus relief of a constitutional violation that has been decided in state court unless the state court's decision violates "clearly established federal law as determined by the Supreme Court of the United States or resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding."

[Deck v. Missouri](#) (2005): The Court ruled that the shackling of a defendant in front of a jury violates the due process clause of the Constitution because it could bias the jury. Shackles are only permissible if essential for security reasons.

To Think and To Do: At issue is whether Davenport's [Sixth Amendment](#) right to an impartial jury was violated. Did the visible shackling of Ervine Lee Davenport bias the jury to conclude that he was guilty of the charges against him prior to the presentation of the evidence? Is he eligible for habeas corpus relief at the federal level? These are fair questions to ask in response to what the U.S. Constitution requires, but it is not so easy to answer because of existing federal statutes and U.S. Supreme Court precedent. Given the statute and precedents in this case, how do you think the justices will rule? Explain.

