

Due process means that there are certain fundamental rights and guarantees that cannot be taken away by the federal or by the state governments. Some of those rights are found in the Bill of Rights specifically, such as the right against double jeopardy, against self-incrimination, and against unreasonable searches and seizures.

On the other hand, sometimes a judge must look at a specific case and decide whether due process has been denied even though the right is not specified in the Bill of Rights. For example, consider the case of *Stovall v. Denno*. In this case a man was murdered by an intruder in his home. His wife was so severely injured that she was taken to a hospital and not expected to live. A single suspect was brought, handcuffed, into the hospital room. The woman identified him as the murderer. The woman lived and, at his trial, identified him again.

The defendant argued that his right to due process was violated. He argued that rather than being put in a lineup of five or six persons, he was shown to the woman by himself and in handcuffs. Thus, he asserted that the procedure by which he was identified was basically unfair.

Ordinarily, a court might not approve of this procedure. Here, however, the court balanced the defendant's right to be treated fairly with the right of society to make sure that the prosecution of a man for a crime would not be stopped or hindered by the death of the victim.

In sum, the Supreme Court will look at a case and decide if the procedures used in that case were fundamentally fair. The rights which make a procedure fundamentally fair include those found in the Bill of Rights such as the right to remain silent, to a jury trial, to the assistance of counsel, and to confront witnesses.

Activi~~ 1 FOR LESSON Six

In one or two sentences, explain the meaning of each of the following terms.

1. indictment

2. grand jury