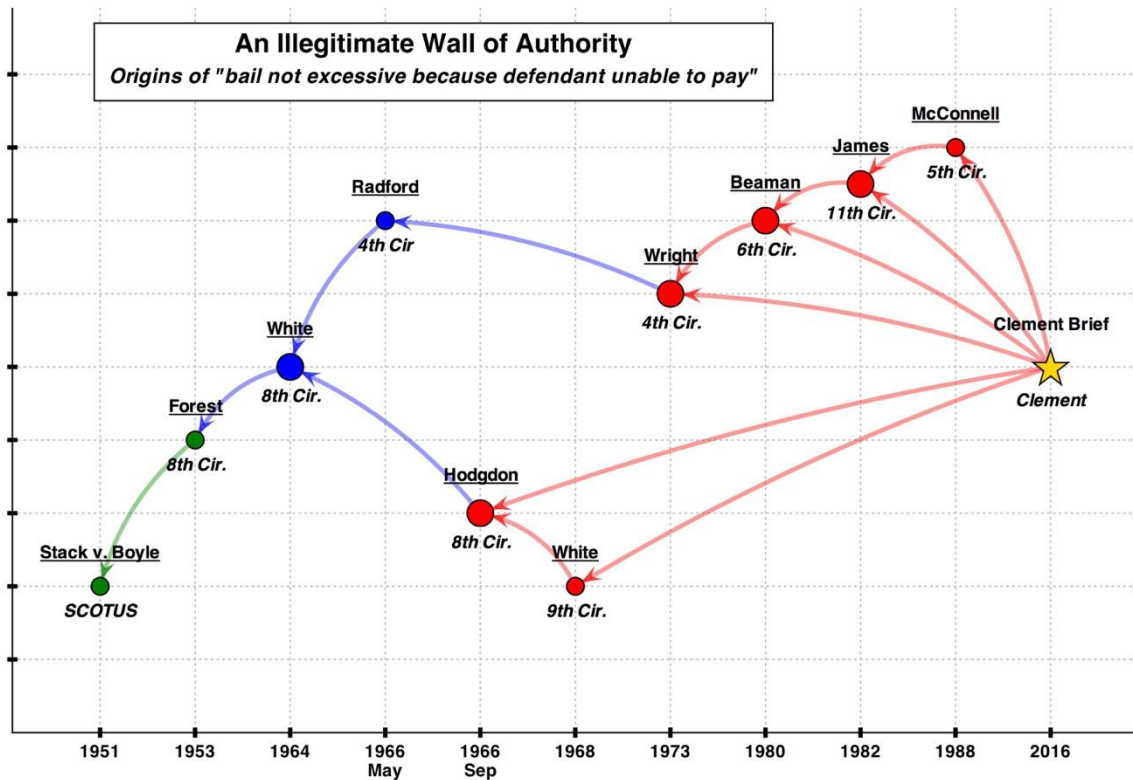


Instructions: For open-source access to underlying case law, click directly on the figure.
 (To open the link in a separate tab, right-click on the symbol and select "open in new tab.")



This Figure represents the argument made in Part II of the article.

Here is how to read this “doctrinal map”¹: Circles represent cases and the yellow star represents the Clement Memo. Arrows pointing back from circles or the star represent citations. The Clement brief directly cited the red cases for the proposition in question – and those cases do state that bail is not excessive because the defendant is unable to pay. The red cases, in turn, properly cited blue cases (as well as other red cases) for the same proposition. Finally, the green cases are cited by blue cases but they do not support the proposition. In other words, the green cases do not state or imply that bail is not excessive merely because the defendant is unable to pay it.

Though Figure 1 distills the essential line of authority for the key proposition, it does not purport to show every case cited or citation in the network. Rather, it presents an accurate schematic picture of the doctrinal relationships. Critically, none of the red cases engage in any independent analysis of the proposition. Instead, the cases all rely exclusively on prior authority to justify the claim. The 1973 *Wright* case is typical in this regard. In *Wright*, the court states:

The defendant urges his impecunious financial status as an essential criterion of excessiveness which the Eighth Amendment forbids. We point out, however, that the governing criterion to test the excessiveness of bail is not as the defendant suggests, but whether bail is set at a figure higher than an amount reasonably calculated to insure that the accused will stand trial. *United States v. Radford*, supra; *Forest v. United States*, 203 F.2d 83 (8th Cir. 1953).²

Note how *Wright* bases its rejection of any relevance to the defendant’s “impecunious financial status” on caselaw alone.³ That’s it – end of analysis. The other red and blue cases resort to the same method.

The key point of the map – and of the citation network it represents – is that all roads lead to the 1964 *White* case. This is the first time that a direct statement of the key proposition emerges in the doctrine. All subsequent cases merely echo *White*’s original pronouncement.

¹ This doctrinal mapping technique was introduced and developed in earlier work. See Colin Starger, *Exile on Main Street: Competing Traditions and Due Process Dissent*, 95 MARQ. L. REV. 1253 (2012); Colin Starger, *Expanding Stare Decisis: The Role of Precedent in the Unfolding Dialectic of Brady v. Maryland*, 46 LOY. L.A. L. REV. 75 (2012).

² *Wright*, 483 F.2d at 1070.

³ Note too how *Wright*’s cite to *Forest* is not shown on the map, but is instead schematically captured by showing its cite to *Radford*, which in turn cited *White*, which in turn (mis)cited *Forest* for the same proposition. All of the cross-citations would unnecessarily complicate the visual so were left out.