



## Debtors' Prisons — Again

Dana Burdette, after being incarcerated for being unable to pay her fine to the Harpersville, Alabama court, [filed suit](#) in 2010 claiming that her civil rights were violated. She was not alone. Joining her were Richard Garrett, Terrence Datcher, and Debra Ford. The lawsuit claimed that the city “automatically incarcerates indigent defendants for failure to pay fines and costs,” among other indignities and [constitutional violations](#). The case wound up [in front of Shelby County Judge Hub Harrington](#), who tore to shreds the defendants’ arguments that they were just following the rules:



When viewed in a light most favorable to Defendants [the mayor, the police chief, the ruling court judge, the county clerk, along with the “enforcer” — the [Judicial Corrections Services company](#)], their testimony concerning the City’s court system could reasonably be characterized as the operation of a debtors’ prison.

The court notes that these generally fell into disfavor by the early 1800s, though the practice appears to have remained commonplace in Harpersville.

From a fair reading of the defendants’ testimony one might ascertain that a more apt description of the Harpersville Municipal Court practices is that of a judicially-sanctioned extortion racket.

Most distressing is that these abuses have been perpetrated by what is supposed to be a court of law. Disgraceful.

Judge Harrington went on to list the violations perpetrated upon the four complainants and claimed that they were so numerous that he couldn’t cover them all:

Depositions present virtually undisputed evidence that [the four] appearing before the Harpersville Municipal Court have been subjected to repeated and ongoing violations of almost every safeguard afforded by the United States Constitution, the laws of the State of Alabama, and the Rules of Criminal Procedure.

So egregious were these violations that Harrington not only ruled in favor of the four complainants but hammered the city in the process:

Effective immediately, and until further [notice], the City of Harpersville is ... enjoined from incarcerating any individual in either the Shelby County jail or the Shelby County Community Corrections facility without having first obtained written authorization [from me].

Then Harrington granted the four their motion to hold a detailed hearing on the matter, and demanded that each defendant be present:

The mayor and every member of the Harpersville City Council shall be present in person for [this



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hearing] and shall appear at any and all subsequent hearings in this case until final resolution...

These individuals, who are the officials ultimately responsible for the operation of the city, may wish to consult with [the court's attorney] regarding the consequences of one's failure to appear, especially when ordered by a court to do so.

This is hardly an isolated case, unfortunately. Both the American Civil Liberties Union (ACLU) and the Brennan Center for Justice (BCJ) have been howling for years about "debtors' prisons" being used illegally to wring out the last ounce of juice from defendants who, in the main, are unable to pay what they owe. [The BCJ estimates](#) that 80 percent of those incarcerated due to inability to pay are indigent. The defendant is given a short time to pay up (a day or two) or they are required to serve time. This is a form of double jeopardy where the original sentence is compounded by another one when he or she fails to fork over the fines, fees, penalties, and service charges added for the collection efforts.

Jack Dawley's case is far from unique, [according to the ACLU](#). In the 1990s Jack made a number of bad decisions — domestic violence, driving under the influence — to which he now freely admits. After spending three and a half years in jail, he decided to go straight: "Upon my release I finally made a right decision and chose to stay sober." That was 14 years ago and yet the fines and fees and penalties along with escalating interest costs continue to hound him. When he fell behind on those payments, he went to jail for 10 days. Upon his release the judge remonstrated that Jack needed to catch up or wind up in jail again. From 2007 to 2012 the cycle continued to interrupt his best intentions: fall behind, go to jail, get a job, make some payments, fall behind, go to jail ... wash, rinse, repeat. Said Jack: "When I lost my job, I pretty much lost everything. You expect some kind of leniency when you can't pay, but there was no leniency. You either pay or you go to jail."

Here are the numbers:

Fines owed: \$900+

Costs owed: \$534

Total: \$1,434

Paid by Jack: \$645

Spent to execute warrants on Jack: \$1,600

16 days of incarceration: \$928

Total: \$2,528

Cost to taxpayers: \$1,883.

Notes the ACLU: "Jack has taken responsibility for his past actions and remains hopeful about his future. He wants to pay back the fines he owes, but with a crippled job market, a past felony conviction and the threat of serving another jail sentence to pay back money he did not have, it has been nearly impossible."

There are other examples. There's Jared Thornburg of Westminster, Colorado who, unemployed and homeless, was fined \$165 for driving a defective vehicle. When he couldn't pay within two days, the court issued a warrant and demanded that he either pay \$245 or go to jail. This was [Hobson's Choice](#), and Jared went to jail.

There's Linda Roberts of Wheat Ridge, Colorado, who shoplifted \$20 worth of groceries and was fined



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\$371 plus ordered to take a class costing another \$80. Linda explained that she was unemployed, disabled, impoverished, and unable to pay. When she failed to pay, the court issued a warrant (called a “pay or serve” warrant) with the fine increased to \$746, due immediately, or else 15 days in jail. Again, Hobson’s Choice.

There’s precious little progress to report, according to the ACLU and the BCJ. But Denver, Colorado, [stopped issuing warrants for failure to pay](#) in 2012, citing the high costs of incarceration and the lost revenue from forfeiting fines. Since then Denver has seen both the amount of fines and fees collected increase along with a decrease in the cost of incarcerations.

Debtors’ prisons are the dirty little secret that has been largely hidden from view for years. But efforts such as those of the ACLU and the BCJ are finally getting the attention of some of the mainstream media such as [CBS](#) and [The Economist](#).

Along with rulings such as those of Judge Harrington.

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