

FOR IMMEDIATE RELEASE
JUNE 20, 2016

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Settlement Ends “Debtors’ Prison” System in Jackson, Mississippi

Money Bail in Misdemeanor Cases Also Eliminated

JACKSON, Miss. – The landmark settlement of a federal class action against the City of Jackson, Mississippi, has brought an end to that city’s self-described “pay or stay” system alleged to have sent hundreds of people to jail each year because they could not pay fines and fees in misdemeanor cases.

The City has agreed to give indigent defendants the choice of paying off their fines at the rate of \$25 per month or performing community service and receiving credit toward their unpaid fines at the rate of \$9 per hour.

In addition, Jackson no longer will require people arrested for misdemeanors to post a money bond in order to avoid pre-trial detention. Rather than releasing only those people who can afford to pay a bond and detaining those people who – although presumptively innocent – are too poor to pay their way out of jail, the city will release all people arrested for misdemeanors upon their written promise to appear in court on a specified date for a trial or other hearing. As an alternative to money bond, the city’s judges will have the option to place non-monetary pre-trial conditions on people arrested for misdemeanor offenses. For example, a judge might order a person accused of shoplifting to stay away from the location of the alleged misdemeanor until after the resolution of that person’s case.

The agreement is part of a settlement reached in the lawsuit filed by Equal Justice Under Law, a non-profit civil rights organization in Washington, D.C., and the Roderick and Solange MacArthur Justice Center at the University of Mississippi School of Law. The case was filed on behalf of seven Jackson residents who were ordered to jail by Jackson municipal judges for periods ranging from 26-90 days due to their inability to pay court debts imposed in misdemeanor cases.

The lawsuit challenged Jackson’s practice of sending impoverished people to jail when they failed to pay their court debts without regard for whether they actually had the financial ability to pay. Persons sent to jail under this system received credit toward their unpaid debts at a rate of \$25 per day of incarceration at the Hinds County Jail, or \$58 per day if they participated in the mandatory work program at the Hinds County Penal Farm. As a result of this practice, some people spent several months in jail while working off their debts.

The lawsuit alleged that this practice was carried out for more than a decade and resulted in the incarceration of hundreds of indigent defendants each year.

U.S. District Judge Tom S. Lee of the Southern District of Mississippi entered a declaratory judgment in *Bell v. City of Jackson* setting forth the limitations on incarcerating defendants for failure to pay fines. The judgment states: “It violates the Constitution to incarcerate an individual, either before or after trial, solely because an individual does not have the ability to make a monetary payment.... Based upon this constitutional principle, no individual may be held in jail for nonpayment of fines, fees, and/or costs imposed by a court without a determination, following a meaningful inquiry into the individual’s ability to pay, that the individual willfully refuses or willfully failed to make payment. The meaningful inquiry into the individual’s ability to pay includes, but is not limited to, notice and an opportunity to present evidence.”

In addition to dismantling the “pay or stay” system, the City of Jackson has agreed to an injunction prohibiting the use of secured money bail and requiring that all defendants in misdemeanor cases prosecuted by the City of Jackson be released upon their written agreement to appear for court hearings and to abide by specified conditions of pre-trial release. Defendants charged with certain offenses must appear before a judge for the imposition of reasonable non-financial conditions, and no person arrested for a misdemeanor will be held in jail or released based on their wealth status.

The seven plaintiffs in the case will have their indebtedness to the City of Jackson forgiven and will receive settlement payments totaling \$128,400.

“We applaud Mayor Yarber, the City Council, and the City Attorney’s Office for taking seriously the allegations in our lawsuit and the realities facing so many Jacksonians who struggle mightily just to make ends meet,” said Cliff Johnson, Director of the MacArthur Justice Center at the University of Mississippi School of Law. “Because Jackson’s leaders recognized the need to change Jackson’s practices and agreed to a voluntary resolution of our lawsuit, the city avoided paying us hundreds of thousands of dollars in attorney’s fees and saved the city from huge class action damages. That money now can be used instead to improve the Jackson community.”

“The processes and procedures adopted by the Capital City pursuant to our agreement are a model for the rest of the state,” Johnson added, “and it is our hope that cities and counties throughout Mississippi will adopt these same practices rather than continuing to jail poor folks unjustly and forcing us to file lawsuits seeking millions of dollars in damages.”

Jake Howard of the MacArthur Justice Center conceded that the “debtors’ prison” regime and widespread use of money bail in misdemeanor cases previously in place in Jackson are not unusual in Mississippi and that similar litigation against other Mississippi cities and counties is likely. “It would be nice to see others fall in line voluntarily, but we know from experience that litigation often is necessary in order to get the attention of those in power,” said Howard.

Alec Karakatsanis, co-founder of Equal Justice Under Law, explained “no human being should be kept in a cage because she cannot make a monetary payment. The Constitution forbids it, and communities across the country are finally beginning to end the scourge of debtors’ prisons and money bail.” Karakatsanis and Equal Justice Under Law work with lawyers throughout the country on issues of poverty and criminal law, and the

settlement with Jackson is the latest in a series of successful cases challenging practices that result in the incarceration of poor people.

Last year, Equal Justice Under Law and the MacArthur Justice Center negotiated a settlement of a federal class action lawsuit against the City of Moss Point, Mississippi that brought an end to the use of money bail in misdemeanor cases prosecuted there.

For a copy of the complaint, declaratory judgment and final judgment, go to <http://umlaw.macarthurjusticecenter.org/Projects/Debtors-Prison.html>

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About Equal Justice Under Law

Equal Justice Under Law is a non-profit civil rights organization, founded in 2014, dedicated to providing pro bono legal services to those most in need. The organization is headquartered in Washington, D.C., and brings cases nationwide to make the legal system more equal. Equal Justice Under Law was chosen by the Harvard Law School Public Service Venture Fund to be its first-ever seed grant recipient.

www.equaljusticeunderlaw.org

About the Roderick and Solange MacArthur Justice Center

The Roderick and Solange MacArthur Justice Center is a public interest law firm founded by the family of J. Roderick MacArthur to advocate for human rights and social justice through litigation. The MacArthur Justice Center has offices at Northwestern Pritzker School of Law in Chicago, at the University of Mississippi School of Law and in New Orleans.

www.umlaw.macarthurjusticecenter.org