No. 10-10

In The
Supreme Court of the United States

MICHAEL D. TURNER,

Petitioner,

v.

REBECCA L. ROGERS
and LARRY E. PRICE, SR.,

Respondents.

On Writ Of Certiorari To The Supreme Court Of South Carolina

BRIEF OF RESPONDENTS

STEPHANOS BIBAS
Counsel of Record
JAMES A. FELDMAN
NANCY BREGSTEIN GORDON
AMY WAX
UNIVERSITY OF PENNSYLVANIA
LAW SCHOOL
SUPREME COURT CLINIC
3400 Chestnut Street
Philadelphia, PA 19104
(215) 746-2297
sbibas@law.upenn.edu

STEPHEN B. KINNAIRD
PANTEHA ABDOLLAHI
D. SCOTT CARLTON
ERIC A. LONG
PAUL, HASTINGS, JANOFSKY
& WALKER LLP
875 15th Street N.W.
Washington, DC 20005
(202) 551-1842

COCKLE LAW BRIEF PRINTING CO. (800) 225-6964
OR CALL COLLECT (402) 342-2831

QUESTIONS PRESENTED

A child's indigent mother repeatedly appeared *pro se* in a series of civil-contempt actions to enforce a child-support decree against the child's father. At his sixth hearing, the father admitted fault and was confined for civil contempt. His appellate lawyer sought no stay, and he completed serving his twelve-month term of confinement. The questions presented are:

(1) Does this Court have jurisdiction to review the decision of the South Carolina Supreme Court?

(2) In a mother's *pro se* action to enforce a child-support order, does the father have a categorical Sixth or Fourteenth Amendment right to appointed counsel before he can be confined for a limited time for civil contempt?

PARTIES TO THE PROCEEDING

Petitioner Michael D. Turner is the father of B.L.P. and was the defendant and appellant in the courts below. Rebecca L. Rogers (née Price), the mother of B.L.P. and the plaintiff and respondent in the courts below, is a respondent here. Petitioner still owes child-support back payments to Mrs. Rogers.

Because of her poverty, Mrs. Rogers had to relinquish physical custody of B.L.P. to her parents, Judy and Larry E. Price, Sr. Accordingly, in May 2009, the Oconee County Family Court redirected future child-support payments from Mrs. Rogers to Mrs. Price. When Mrs. Price passed away in June 2010, Mr. Price retained sole physical custody of his granddaughter B.L.P., and the family court redirected future child-support payments to him. Thus, Mr. Price is a second named respondent. This Court granted his motion to intervene when it granted certiorari.

Petitioner attempted to add the South Carolina Department of Social Services (DSS) as an additional respondent at the certiorari stage, but DSS declined to intervene. DSS filed a brief with this Court affirming that it did not participate in the proceedings below and is not a party to this appeal. DSS Opp. 1-2. DSS was not a party to the judgment of the South Carolina Supreme Court and has not intervened. The Deputy Clerk of this Court has confirmed that DSS is not a party to these proceedings. *See* S. Ct. R. 12.6.

TABLE OF CONTENTS

TABLE OF CONTENTS – Continued

TABLE OF CONTENTS – Continued

TABLE OF CONTENTS – Continued

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES – Continued

TABLE OF AUTHORITIES – Continued

TABLE OF AUTHORITIES – Continued

TABLE OF AUTHORITIES – Continued

Page

TABLE OF AUTHORITIES – Continued

TABLE OF AUTHORITIES – Continued

TABLE OF AUTHORITIES – Continued

Page

TABLE OF AUTHORITIES – Continued

TABLE OF AUTHORITIES – Continued

Page

JURISDICTION

This Court lacks jurisdiction because there is no longer an actual case or controversy as required by Article III of the U.S. Constitution. Since petitioner has completed his term of confinement, this case is moot. In the future, he and other civil contemnors can obtain stays pending appeal, so the merits question presented will not evade this Court's review. *Infra* pp. 20-29.

CONSTITUTIONAL PROVISIONS INVOLVED

Article III, § 2, clause 1 of the U.S. Constitution provides:

> The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; – to all Cases affecting Ambassadors, other public Ministers and Consuls; – to all Cases of admiralty and maritime Jurisdiction; – to Controversies to which the United States shall be a Party; – to Controversies between two or more States; – [between a State and Citizens of another State;] – between Citizens of different States, – between Citizens of the same State claiming Lands under Grants of different States, [and between a State, or the Citizens thereof, and foreign States, Citizens, or Subjects].

U.S. Const. art. III, § 2, cl. 1 (bracketed material largely repealed by U.S. Const. amend. XI).

The Sixth Amendment provides, in relevant part:

> In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence.

U.S. Const. amend. VI.

The Fourteenth Amendment provides, in relevant part:

> [N]or shall any State deprive any person of life, liberty, or property, without due process of law . . . .

U.S. Const. amend. XIV, § 1.

STATEMENT OF THE CASE

For nearly eight years, respondent Rebecca Rogers has tried to collect child support from petitioner for their daughter, B.L.P. Wage withholding has failed because petitioner has repeatedly changed jobs and earned unreported income. The one measure that has succeeded in compelling him to pay substantial amounts has been the prospect of confinement for civil contempt. Mrs. Rogers has repeatedly proceeded *pro se* against petitioner for civil contempt, and on four previous occasions he quickly produced many hundreds of dollars to avoid or end confinement.

Mrs. Rogers's plight is common. Millions of custodial parents (usually mothers) and their children depend on child support, and millions of noncustodial parents (usually fathers) willfully avoid paying it, often by working off the books. States have found that civil contempt works as a backstop to induce nonpaying fathers to pay after other measures fail. Fathers who allege indigence often pay what they owe and so avoid confinement.

Child-support civil-contempt proceedings, often brought by *pro se* mothers, are straightforward and informal, so lawyers are unnecessary. They usually turn on simple factual issues of payment history and ability to pay, readily documented by bank statements, pay stubs, and employers' or doctors' notes. Demonstrating inability to pay is akin to the threshold showing of indigence that criminal defendants must make on their own *before* receiving appointed lawyers. The rules of evidence and procedure are relaxed, and motions and third-party witnesses are rare, even in cases with lawyers. When lawyers are involved, they do little that requires legal expertise. Moreover, introducing lawyers would disadvantage *pro se* mothers, tilting what is now a level playing field between two *pro se* litigants. Thus, neither the Sixth Amendment nor due process requires governments to spend large amounts to appoint a lawyer in every case. Such a categorical requirement would not only complicate these informal proceedings but also delay child-support payments for the neediest children.

I. Statutory Background of Child-Support Enforcement

A. Voluntary Nonpayment Is a Widespread Problem

Child support is a "lifeline" for many struggling families. 155 Cong. Rec. S10,706 (2009) (statement of Sen. Kohl). Nearly a quarter of custodial parents and their children live in poverty. U.S. Census Bureau, *Custodial Mothers and Fathers and Their Child Support: 2007*, at 4 (2009). Many depend on child support to make ends meet. Yet noncustodial parents often fail to pay the child support they owe. In 2007, noncustodial parents owed $34.1 billion in child support to 6.4 million custodial parents in the United States. *Id.* at 9. The noncustodial parents paid less than two-thirds of the amount they owed; more than 1.5 million custodial parents – and their children – received nothing at all. *Id.* at 7 tbl.2.

Many nonpaying parents have the means to pay but choose not to. The poverty rate among noncustodial fathers is estimated to be half that of custodial mothers. Maureen A. Pirog & Kathleen M. Ziol-Guest, *Child Support Enforcement: Programs and Policies, Impacts and Questions*, 25 J. Pol'y Analysis & Mgmt. 943, 972 (2006). One study found that "42 percent of nonresident fathers did not pay formal child support and had no apparent financial reason to shirk this responsibility," suggesting "that there are plenty of deadbeats." Elaine Sorensen & Chava Zibman, *Getting to Know Poor Fathers Who Do Not Pay Child Support*, 75 Soc. Serv. Rev. 420, 422 (2001).

B. The Child-Support Enforcement Statutory Scheme

Recognizing custodial parents' and their children's need for prompt, reliable child-support payments, Congress enacted the Child Support Enforcement Amendments of 1984. Pub. L. No. 98-378, 98 Stat. 1305. That Act requires states to deduct unpaid child support from delinquent parents' tax refunds, allow liens to be imposed on their property, and compel employers to withhold child support from their pay. *Id.* § 3(b) (codified as amended at 42 U.S.C. § 666 (2006)).

As required by federal law, states maintain databases to notify employers if any of their new hires are subject to child-support withholding. *See, e.g.*, S.C. Code Ann. § 63-17-1210 (2009); *see also* 42 U.S.C. § 653a(a) (2006). South Carolina has procedures to withhold delinquent parents' income automatically, revoke their driver's and business licenses, notify credit-reporting agencies of their delinquency, and impose liens on their property. S.C. Code Ann. §§ 63-17-1060, -1420, -2510, -2710 (2009); *see also* 42 U.S.C. § 666(a)-(b) (2006) (requiring these measures).

States and the federal government offer assistance to noncustodial parents who cannot pay. South Carolina, for example, offers employment and training programs to help noncustodial parents fulfill their child-support obligations. *Custody and Visitation*, S.C. Child Support Enforcement, http://www.state.sc.us/dss/csed/vip.htm (last visited Feb. 6, 2011). A noncustodial

parent can also request review and adjustment of his child-support obligation every three years, or sooner if circumstances (like income) have changed substantially. 42 U.S.C. § 666(a)(10) (2006). Additionally, legal aid is available to South Carolina parents seeking to modify child-support orders.[1]

C. Hidden Income as a Barrier to Child-Support Enforcement

Most enforcement mechanisms fail when a noncustodial parent hides his income to shirk his court-ordered child-support obligations. States cannot withhold child-support payments from income that is unreported or unlawful. *See, e.g.*, Mich. Supreme Court, *The Underground Economy* 11-12 (2010). "Many [nonsupporting parents] opt to work in the underground economy at least in part because doing so enables them to shield their earnings from child support enforcement efforts . . . caus[ing] huge shortfalls." *Id.* at 10.

---

[1] South Carolina Legal Services offers pro bono assistance at attorney-staffed offices throughout the state. *South Carolina Legal Services Office Locations*, S.C. Legal Services, http://www.sclegal.org/Home/Locations/tabid/211/Default.aspx (last visited Feb. 6, 2011). Assistance with child-support modification is available in person and online. *See Self-Represented Litigant Child Support Modification Clinic for Reduction of Child Support*, S.C. Legal Services, http://www.sclegal.org/SideMenu/ForThePublic/FamilyLL/tabid/476/language/en-US/Default.aspx (last visited Feb. 6, 2011) (assisting *pro se* litigants).

Other states and studies report similar problems. *See, e.g.*, Rhonda Zingraff, *The Promise and Peril of Advancing Strategies for a Problem-Solving Court* 4 (Mar. 2010) (unpublished manuscript), *available at* http://www.childsupportandthecourt.org/how-to-manual/data ("[F]or [noncustodial parents] who rely on the underground economy[,] cash is usually gone before any effort to tap it can begin."); Maureen R. Waller & Robert Plotnick, *Effective Child Support Policy for Low-Income Families: Evidence from Street Level Research*, 20 J. Pol'y Analysis & Mgmt. 89, 104 (2001) (describing fathers who "quit their job[s] when they discovered how much of their wages were garnished" and fathers who turned to "under-the-table jobs, selling drugs, stealing, and gambling"); Abdon M. Pallasch, *State's Deadbeat Dads Owe $3 Bil.*, Chi. Sun-Times, Apr. 8, 2007, at A14 (noting that divorce lawyers joke that some fathers come down with "Acquired Income Deficiency Syndrome").

Because hiding income defeats traditional enforcement mechanisms, custodial parents and states sometimes must resort to civil-contempt proceedings. All eighteen states that responded to a recent federal survey reported that civil-contempt proceedings are used to enforce child-support orders, often when other measures fail. *See Compendium of Responses Collected by the U.S. Dep't of Health & Hum. Servs. Office of Child Support Enforcement* (Dec. 28, 2010) [OCSE Survey]. And when civil contempt is necessary, states have found that it works. *Id.* (Kentucky: "it is a highly effective collection tool. . . ."; Minnesota: "collections increase after findings of contempt."; Oklahoma: "it is

effective when nothing else will work and the [parent] is working for cash or in the underground economy."; Oregon: "When we combine contempt actions with a problem solving approach we have seen a 200% increase in collection."); *see also* Rhonda Zingraff, *Extended Executive Summary: The Effects of Differential Court Sanctions on Child Support Payment Compliance* 18, 26 chart 3 (Jan. 18, 2007) (unpublished manuscript), *available at* http://www.childsupportandthecourt.org/how-to-manual/data (finding that confinement for contempt nearly triples percentage of parents making payments in the months after release).

In sum, "[m]any judges . . . report that the prospect of spending [time] in jail often causes obligors to discover previously undisclosed resources that they can use to make child support payments." Mich. Supreme Court, *supra*, at C-2.

II. Facts

Petitioner Michael Turner and respondent Rebecca L. Rogers (née Price) had a daughter, B.L.P., in July 1996, when he was 19 and she was 17. The pair drifted apart soon after B.L.P.'s birth. Mrs. Rogers retained custody of the child and received state financial assistance to support B.L.P. *See* JA 27a; Pet. App. 19a, 25a.

In January 2003, the South Carolina Department of Social Services (DSS) notified petitioner of his obligation to support his daughter. JA 7a. On June 18, 2003, the Oconee County Family Court entered an Order of Financial Responsibility, requiring him to pay $51.73 per week in child support. Pet. App. 19a,

22a. The order explained how to adjust the obligation if his circumstances changed and warned him that failure to pay could result in confinement for contempt. *Id.* at 23a-24a. Petitioner and Mrs. Rogers consented to and signed the order. *Id.* at 24a. Anticipating that she would receive child support as promised, Mrs. Rogers informed the state that she would no longer need public assistance for B.L.P. as of July 1, 2003. *See* JA 27a. DSS acknowledged that Mrs. Rogers had closed her public-assistance account and moved to have the family court send petitioner's child-support payments directly to her. JA 26a-27a. The court granted the motion. *Id.* Thereafter, DSS was no longer a real party in interest.[2]

Petitioner defaulted on his obligation immediately, paying nothing all summer. By September 17, 2003, he was more than $760 in arrears, even though he had a new job. JA 17a-18a. The family court held him in civil contempt but gave him the opportunity to

---

[2] Petitioner repeatedly suggests, incorrectly, that DSS is the real plaintiff in this case. Petr. Br. ii, 8 n.3. But in the one place in the record where petitioner notes that DSS entered an appearance, at a September 14, 2005 hearing, the transcript reflects that the DSS representative did not say a single word. JA 40a-46a. Accompanied by her mother, Mrs. Rogers (known at the time as Ms. Price) argued the case on her own behalf. *Id.* If Mrs. Rogers had not wanted to proceed, the case against petitioner would have been terminated, as it was in 1999 after Mrs. Rogers indicated that she no longer wanted to proceed. In a handwritten note dated May 25, 1999, Mrs. Rogers "[r]equest[ed] the case against Michael Turner to be closed." App. 1a-7a.

avoid ninety days' confinement by paying the balance within one month. *Id.* Petitioner, or someone on his behalf, made four payments totaling $1055.57 by the deadline, so he was not confined. JA 131a. This began a pattern in which petitioner avoided making payments until spurred to do so by the prospect of confinement.

Three more times, on February 18, 2004, October 20, 2004, and February 9, 2005, the family court held petitioner in civil contempt, ordering him to be confined for ninety days or until he paid his outstanding child-support obligations. JA 23a-25a, 31a-32a, 33a-34a. Each time, petitioner or someone on his behalf paid the money (totaling $800.67, $884.79, and $587.96, respectively) in the few weeks before and few days after each hearing. JA 129a-130a, 126a, 125a. He was confined for two days in February 2004 and three days in October 2004 and was released each time immediately after satisfying his obligation. App. 8a-10a. He was not confined at all in February 2005.

During these years, petitioner found construction, automotive, and painting jobs. He worked for at least eight different employers between 2003 and 2006: Cape Construction Realty, McGuffin's Auto Service, Weaver's Brake Service, Brook's Tire Service, Wolf Construction, Quality Construction, Tamassee Knob Car Care, and John's Painting. JA 12a, 18a, 24a, 138a, 137a, 137a, 47a, 53a. This pattern of moving from one job to another is common among noncustodial parents seeking to evade their child-support obligations. *See* Waller & Plotnick, *supra*, at 104.

The family court collected some money through wage withholding in 2004 and 2005 but had difficulty tracking petitioner as he changed jobs. In August 2003, the court directed McGuffin's to garnish petitioner's wages, but McGuffin's notified the court that petitioner was not working there. JA 139a. In August 2004, after the family court began wage withholding, Brook's Tire replied that petitioner no longer worked there. JA 138a. In June 2005, Wolf Construction reported that petitioner had moved on; Quality Construction did the same the next month. JA 137a-138a. In April 2006, the court learned that petitioner had been working at John's Painting, but two weeks later could not confirm his employment. JA 136a. After July 14, 2005, the court never successfully collected child support via wage withholding. JA 105a-123a. Petitioner evidently earned enough money to receive a $178 tax refund for the 2007 tax year, but nevertheless did not pay any child support that year. JA 91a, 111a-114a.

Mrs. Rogers grew impatient with petitioner's pattern of dilatory payments. At a September 14, 2005 hearing (which petitioner did not attend), Mrs. Rogers informed the court of petitioner's employment and residence and his habitual nonpayment of child support. JA 41a-45a. She asked whether, given petitioner's pattern of not paying child support, the court would confine him. Judge Timothy Cain demurred because petitioner had not yet been brought to court on a bench warrant and had not had a chance to explain why he had not paid: "I can't say what the

sentence would be without hearing whatever excuse he might have." JA 44a-45a.

After petitioner was brought to court two weeks later, Judge Cain ordered him confined for six months or until he satisfied his child-support obligations. JA 47a-48a. Petitioner paid nothing and was confined until January 25, 2006. JA 121a-122a; App. 11a. Two months later, Mrs. Rogers received $1404 culled from petitioner's government benefits. JA 57a, 121a; Pet. Reply 8 n.2. Between April 2006 and January 2008, only three payments totaling $200 were made on petitioner's child-support obligation, all in August 2006 just after a bench warrant issued. JA 114a-120a, 136a.

After the events directly at issue, petitioner continued to refuse to pay any child support, even though at least in 2009 and 2010 he was making money by selling drugs. In August and September 2009, he sold the prescription drug Xanax to undercover police officers. In February 2010, he was arrested for possessing another prescription drug, Lortab, and was charged on the outstanding warrants from 2009. App. 17a-20a, 25a-28a, 33a-36a. Within three days, he managed to post a $10,000 surety bond. App. 14a-16a. In November 2010, he pleaded guilty to three of the outstanding drug charges, receiving concurrent three-year suspended sentences plus one year's probation for the two Xanax convictions and a six-month suspended sentence for the Lortab conviction. App. 21a-24a, 29a-32a, 37a-54a. Though he was earning income, buying drugs, and able to post the $10,000

surety bond, he did not pay a single dollar in child support in 2009 or 2010. JA 105a-111a; App. 16a.

III. Procedural History

In March 2006, the family court ordered petitioner to show cause why he should not be held in civil contempt. JA 49a-51a. When he made no further payments, the court issued a bench warrant for his arrest on July 7, 2006. JA 51a, 136a. Police did not arrest him until December 26, 2007. JA 65a. On January 3, 2008, petitioner appeared in family court for a contempt hearing. JA 60a.

Neither petitioner nor Mrs. Rogers was represented by an attorney, and petitioner never requested one. *Id.*; Pet. App. 16a-18a. Judge Cain was familiar with his case, having presided over his September 2003, February 2004, and September 2005 contempt hearings. The hearing began with the clerk's recitation that petitioner had made no payments whatsoever for more than sixteen months. Pet. App. 16a-17a. Petitioner then admitted that he had not satisfied his child-support obligation. *Id.* at 17a. He blamed his failure to pay primarily on his illegal drug habit – "do[ing] meth, smok[ing] pot, and everything else" – and secondarily on two months' disability. *Id.* Though he had found the money to buy illegal drugs, he had paid Mrs. Rogers only "a little bit here and there." *Id.* He also admitted that he "done wrong" and "should have been paying and helping her." *Id.*

The court found petitioner in willful civil contempt and ordered him confined for twelve months or until he paid the balance he owed Mrs. Rogers, whichever came first. *Id.* at 18a. Judge Cain also specifically told petitioner that he would be eligible for work release. *Id.* There is no record evidence that petitioner tried to take advantage of work release to satisfy his child-support obligation and no record evidence of wages being withheld between 2006 and 2010. JA 105a-121a.[3]

In January 2008, Oconee County's chief public defender, Derek Enderlin, agreed to represent petitioner pro bono. JA 66a-67a. Counsel appealed the contempt order but failed to seek a writ of supersedeas to stay the family court's order. *Cf.* S.C. App. Ct. R.

---

[3] Petitioner asserts that he "could not . . . participate in work release," claiming that he "did not pass [the detention center's] screening process." Petr. Br. 12 n.8. We have tried unsuccessfully to corroborate petitioner's extra-record claim, for which he provides no basis, and conclude that he is mistaken.

The Oconee County Detention Center implemented a work-release program in September 2007. According to the inmate programs coordinator, there is no record that petitioner even asked to be considered for work release. If he had applied, his record of assault and battery and criminal domestic violence, *see* JA 42a, would have led the coordinator to ask more questions. The detention center retains discretion to allow work release even for detainees with records of violent crime. Once a contemnor asks to take part, the coordinator solicits the views of the victim of the offense. Counsel can only speculate about what would have happened in this case, as petitioner never tried to take advantage of this opportunity to free himself. Thus, this Court should disregard petitioner's extra-record claim to the contrary.

241(c)(1)-(2) (authorizing supersedeas "to prevent a contested issue from becoming moot" while on appeal). Petitioner thus remained confined pending his appeal.

Petitioner's brief on appeal, filed four months before the end of his maximum term of confinement, claimed that child-support civil contemnors have a *per se* right to appointed counsel. Pet. App. 15a. It did not contest the family court's finding that petitioner had willfully violated the child-support order. Nor did it dispute the court's "implied finding" that he had not proven inability to pay. *United States* v. *Rylander*, 460 U.S. 752, 760 (1983); *cf. Miller* v. *Miller*, 384 S.E.2d 715, 717 (S.C. 1989) (recognizing South Carolina Supreme Court's authority to make its own findings of fact in family court appeals). Nor did his brief identify any evidence, motions, arguments, or defenses that a lawyer would have offered at the hearing. In other words, it pointed to nothing that a lawyer would have done differently. Nor did it claim that the civil contempt was in fact criminal. Mrs. Rogers never had counsel at any point in the state-court proceedings and filed no brief.[4]

Before the intermediate appellate court could act, the South Carolina Supreme Court certified the case to itself for direct review and affirmed the family

[4] The South Carolina Attorney General's Office declined petitioner's invitation to file a brief on appeal, noting that the state was not a party to this private domestic dispute. JA 68a, 72a.

court's civil-contempt order. Pet. App. 1a, 4a-5a. It held that defendants facing confinement for civil contempt have no *per se* right to court-appointed counsel. *Id.* at 4a. The court noted a crucial difference between civil- and criminal-contempt proceedings: the former are conditional and remedial, while the latter are unconditional and punitive. A defendant like petitioner has no right to a court-appointed attorney "because he may end the imprisonment and purge himself of the sentence at any time by doing the act he had previously refused to do." *Id.* at 3a. Petitioner's "conditional sentence [was] a classic civil contempt sanction" because he was able to free himself by paying the child support he owed, *id.*, either immediately or through work release. Thus, the criminal-procedure protections of the Sixth and Fourteenth Amendments did not apply, *id.*, including the Sixth Amendment's guarantee of a right to counsel "[i]n all criminal prosecutions." U.S. Const. amend. VI.

While his appeal was pending, petitioner served all twelve months of his civil-contempt confinement. He made no payments after his release, and on April 29, 2009, the family court ordered him confined for another six months unless he began to chip away at his arrears by paying $2500 of the $9250 he owed. JA 85a-88a. He paid nothing and remained confined for about three months. JA 109a-110a; App. 13a.

Meanwhile, Mrs. Rogers could no longer afford to support her daughter. She had to relinquish custody to her parents, respondent Larry E. Price, Sr. and Judy Price. In May 2009, the family court directed

that petitioner's child-support payments be paid to Mrs. Price. JA 92a-93a. Mrs. Price died in June 2010, and Mr. Price, a roofer nearing retirement age who works intermittently, now cares for the girl and three of Mrs. Rogers's other children on his own. *See* U.S. S. Ct. IFP Aff. of Larry E. Price, Sr.; JA 101a-102a. Mrs. Rogers works as a waitress, paying weekly support for her children, and walks five miles to and from work because she cannot afford a car. U.S. S. Ct. IFP Aff. of Rebecca L. Rogers.

As of December 2010, petitioner owed the family more than $13,814 in overdue child support. JA 105a. His last payment was a recaptured tax refund in May 2008. JA 91a, 113a. He has not made regular payments since wages were last withheld in July 2005. JA 105a-123a.

SUMMARY OF ARGUMENT

1. This case is moot. Petitioner completed his twelve-month term of confinement and was released in 2008. Although he secured a lawyer a few weeks after his hearing, at no time during the following eleven months did he seek a stay or supersedeas. South Carolina expressly authorizes writs of supersedeas "to prevent a contested issue from becoming moot" while on appeal. S.C. App. Ct. R. 241(c)(1)-(2). This Court and others have held that litigants must seek stays pending appeal to prevent their cases from becoming moot. *St. Pierre* v. *United States*, 319 U.S.

41, 43 (1943) (per curiam). Petitioner and other litigants can seek stays in the future, ensuring many future cases for this Court's review.

2. Neither the Sixth nor the Fourteenth Amendment guarantees appointed counsel in every case where loss of liberty is possible.

a. By its text, the Sixth Amendment is limited to "criminal prosecutions." It protects criminal defendants against the complexity and power imbalance of criminal prosecution by the government, not against civil proceedings brought by *pro se* mothers. Holding otherwise would blur the venerable distinction between criminal and civil contempt, inviting extension of a host of criminal procedures to various civil cases, such as immigration detentions.

b. Likewise, due process does not require appointing counsel whenever liberty is at stake. On the contrary, this Court has rejected categorical rights to counsel in cases involving probation-revocation hearings, summary courts-martial, and involuntary commitments of children to mental hospitals. Similarly, child-support civil-contempt proceedings do not require counsel across the board. Because these historic contempt procedures implicate federalism concerns and courts' ability to enforce their judgments on behalf of private litigants, they deserve substantial deference and a strong presumption of constitutionality. Thus, appointing lawyers is not required to ensure fundamental fairness in routine child-support civil-contempt cases brought by *pro se* mothers.

Nor does *Mathews* v. *Eldridge*'s balancing test require appointing counsel in all such cases. 424 U.S. 319, 335 (1976). The factual and legal issues are almost always simple: (1) Did the defendant pay? (2) Could he have paid? They require, at most, straightforward documents such as paycheck stubs and doctors' or employers' notes. These cases rarely involve authentication of evidence, motions, formal discovery, or questioning witnesses, let alone jury trials. The issues are no more complex than those faced by criminal defendants who must prove that they cannot afford counsel *before* receiving appointed counsel. Empirical scholarship finds that appointing counsel makes no significant difference in simple, nonjury litigation.

While civil contemnors have substantial liberty interests, those interests are adequately safeguarded by simple, informal procedures that contemnors can navigate without lawyers. On the other hand, *pro se* mothers and children share commanding interests in obtaining child support quickly through simple procedures on a level playing field. And states have strong interests in making child-support procedures swift and effective, so fathers cannot flout their obligations and leave their children destitute. Empirical evidence confirms that civil contempt works to induce payments, particularly when other measures have failed. Therefore, even if the *Mathews* test applies, it does not require appointing counsel across the board.

c. Rejecting a rigid, categorical right to counsel does not foreclose more tailored remedies in particular cases. Due process may require case-by-case

appointment of counsel in unusually complex cases, as South Carolina law already provides. Likewise, as the United States suggests, procedures other than appointing counsel, such as financial-disclosure forms and more detailed judicial questioning, may improve fairness. Neither issue, however, was litigated below, included within the question presented, or pressed in petitioner's briefs. Thus, the proper course is to dismiss for want of jurisdiction, or else affirm.

ARGUMENT

I. This Court Lacks Jurisdiction Because This Case Is Moot

The judicial power of federal courts is limited to "Cases" and "Controversies." U.S. Const. art. III, § 2, cl. 1. "This case-or-controversy requirement subsists through all stages of federal judicial proceedings, trial and appellate." *Lewis* v. *Cont'l Bank Corp.*, 494 U.S. 472, 477 (1990). There must persist an actual or threatened injury likely to be redressed by a favorable ruling. *Id.* "It is to be presumed that a cause lies outside this limited [federal] jurisdiction, and the burden of establishing the contrary rests upon the party asserting jurisdiction." *Kokkonen* v. *Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (citation omitted).

Here, since petitioner's term of confinement expired more than two years ago and he faces no collateral consequences, his direct appeal is moot. He seeks

no damages or prospective relief; in fact, nowhere does his brief specify the relief he desires. If he or other contemnors again face contempt, they can obtain stays pending appeal. Thus, the merits question presented will not evade this Court's review.

A. This Case Became Moot Once Petitioner's Term of Civil Confinement Expired

"A federal court is without power to decide moot questions or to give advisory opinions which cannot affect the rights of the litigants in the case before it." *St. Pierre*, 319 U.S. at 42. Except where a criminal conviction carries persistent collateral consequences, a direct appeal typically becomes moot once a defendant has served his sentence. *See Spencer* v. *Kemna*, 523 U.S. 1, 7 (1998). Thus, after the period of confinement expires, an appeal raising constitutional challenges to a contempt finding and confinement is not justiciable. *St. Pierre*, 319 U.S. at 42-43. Once confinement expires, reversal "cannot operate to undo what has been done or restore" the time served. *Id.*

While his appeal was pending, petitioner completed his maximum twelve-month term of confinement and was released. At that point, his appeal became moot. *Id.* at 42. Thus, petitioner's continued litigation "is no longer embedded in any actual controversy about [his] particular legal rights" and "falls outside the scope of the constitutional words 'Cases'

and 'Controversies.'" *Alvarez* v. *Smith*, 130 S. Ct. 576, 580-81 (2009).

B. The Challenged Action Will Not Evade Review and Is Not Likely to Recur

Petitioner errs in claiming that the civil-contempt proceeding at issue falls within the capable-of-repetition-yet-evading-review exception to the mootness doctrine. Br. 19-27. This exception "applies only in exceptional situations" where (a) the action challenged cannot be litigated fully before it expires or ends; and (b) the complainant is reasonably likely to suffer the same action again. *Spencer*, 523 U.S. at 17 (internal quotation marks omitted). The archetypal case involves a plaintiff seeking prospective relief to prevent an injury in a factual context that cannot be stayed. As a defendant appealing an order that could have been stayed but was not, petitioner does not satisfy his burden of proving that either condition applies.

a. First, petitioner posits that "[i]t [w]ould [b]e [v]irtually [i]mpossible [t]o [l]itigate" an uncounseled civil-contempt finding before the civil confinement expired, guaranteeing that it will *always* evade review. Br. 20. That assertion mistakenly assumes that (i) the order of confinement cannot be stayed pending appeal; and (ii) the test for evading review focuses exclusively on petitioner's ability to challenge

the action, excluding others similarly situated who could bring challenges.

i. Any contemnor can seek a writ of supersedeas to stay his confinement pending appeal. Such writs generally issue upon a party's application when needed "to prevent a contested issue from becoming moot." S.C. App. Ct. R. 241(c)(1)-(2); *see, e.g.*, *Berry* v. *Ianuario*, 314 S.E.2d 308 (S.C. 1983) (granting supersedeas to keep parental-rights-termination appeal from becoming moot); *In re Decker*, 471 S.E.2d 459, 461 (S.C. 1995) (granting supersedeas to stay civil-contempt order pending state supreme court's review of unsettled issues). Upon petitioner's request, a South Carolina court could have issued a supersedeas to keep this case alive at least through the South Carolina Supreme Court. At that point, contrary to petitioner's suggestion that this Court lacked power to intervene (Br. 23), a Justice of this Court could have issued a stay or supersedeas. S. Ct. R. 23.

This Court has specifically held, in the contempt context, that litigants must use this procedural tool to prevent mootness. *See St. Pierre*, 319 U.S. at 43 (noting that petitioner "did not apply to this Court for a stay or a supersedeas" and that in the future "the questions which he seeks to raise here may be preserved by . . . the grant of a stay or a supersedeas, for which he may apply to this Court if necessary"); *see also In re Bart*, 82 S. Ct. 675, 675-76 (1962) (Warren, C.J., in chambers) (staying civil-contempt commitment pending appeal, to prevent case from becoming moot upon petitioner's serving the maximum

term of commitment); *Becker* v. *United States*, 451 U.S. 1306, 1312 (1981) (Rehnquist, J., in chambers);[5] *cf. Sibron* v. *New York*, 392 U.S. 40, 53 & n.13 (1968) (treating challenge to expired sentence as not moot because "there [was] no procedure of which [petitioner] could have availed himself to prevent the expiration of his sentence long before this Court could hear his case," as state statute "cut off federal review of whole classes of such cases by the simple expedient of a blanket denial of bail pending appeal").

Petitioner errs in suggesting that *St. Pierre*'s requirement of seeking a stay is no longer good law. Br. 23. He quotes *Pennsylvania* v. *Mimms* for the proposition that "'this Court has long since departed from the rule announced in *St. Pierre*.'" *Id.* (quoting *Mimms*, 434 U.S. 106, 109 n.3 (1977) (per curiam)). But the cited footnote in *Mimms* rejected only *St. Pierre*'s requirement that convicted criminal defendants prove the collateral consequences of criminal convictions to avoid mootness (319 U.S. at 43); it said

---

[5] *See also Iowa Prot. & Advocacy Servs., Inc.* v. *Tanager*, 427 F.3d 541, 544 (8th Cir. 2005) ("Where prompt application for a stay pending appeal can preserve an issue for appeal, the issue is not one that will evade review." (internal quotation marks omitted)); *N.Y. City Employees' Retirement Sys.* v. *Dole Food Co.*, 969 F.2d 1430, 1435 (2d Cir. 1992) (same); *Headwaters, Inc.* v. *Bureau of Land Mgmt.*, 893 F.2d 1012, 1016 (9th Cir. 1989) (same); *Dow Jones & Co.* v. *Kaye*, 256 F.3d 1251, 1256-58 (11th Cir. 2001) (distinguishing *Neb. Press Ass'n* v. *Stuart*, 427 U.S. 539 (1976) (discussed at Petr. Br. 22), because the Nebraska Press Association had sought a stay within nine days); *United States* v. *Taylor*, 8 F.3d 1074, 1077 (6th Cir. 1993).

nothing about *St. Pierre*'s distinct requirement that litigants seek stays. The very next sentence from *Mimms*, which petitioner omits, explained: "These more recent cases have held that the possibility of a criminal defendant's suffering 'collateral legal consequences' from a sentence already served permits him to have his claims reviewed here on the merits." 434 U.S. at 109 n.3. *Mimms* nowhere mentioned stays or supersedeas.

While represented by counsel, petitioner failed to seek a stay or supersedeas when he filed his appeal on January 24, 2008 or any time during the following eleven months. When his civil confinement expired, his case became moot.

ii. In addition, the evading-review analysis focuses not just on this litigant, but on whether *all such claims* by *all potential litigants* will necessarily evade review, such that the claim could never be heard. Even if petitioner could not litigate his claims in a later case, others can raise the same issue in similar suits. In *DeFunis* v. *Odegaard*, petitioner challenged an allegedly discriminatory law-school admissions policy. 416 U.S. 312 (1974). Because he was about to graduate from the school, this Court dismissed the case as moot. If the issue recurred, another litigant could bring "a subsequent case attacking those procedures . . . with relative speed to this Court, now that the Supreme Court of Washington has spoken." *Id.* at 319. Thus, the "exceptional" capable-of-repetition-yet-evading-review doctrine did not apply. *Id.*; *see also Wiggins* v. *Rushen*, 760 F.2d 1009, 1011 (9th Cir. 1985)

(Kennedy, J.) (rejecting evading-review allegation because other litigants could raise the same merits claim in the future); *Sanchez-Mariani* v. *Ellingwood*, 691 F.2d 592, 595 (1st Cir. 1982) (Breyer, J.) (same).

Likewise, there is no reason to assume that another appeal claiming a right to counsel in civil-contempt proceedings will not come to this Court as a live controversy. Courts frequently grant stays of confinement pending appeal to child-support and other civil contemnors.[6] Other cases involving stays will offer live controversies for this Court's review.

---

[6] *See, e.g.*, *Rodriguez* v. *Eighth Judicial Dist. Ct. ex rel. Cnty. of Clark*, 102 P.3d 41, 45 (Nev. 2004) (contempt order stayed and defendant released pending review); *Peters-Riemers* v. *Riemers*, 663 N.W.2d 657, 662 (N.D. 2003) (noting that trial judge had stayed second contempt order); *Wold Family Farms, Inc.* v. *Heartland Organic Foods, Inc.*, 661 N.W.2d 719, 722 (S.D. 2003) (appellate court granted *pro se* motion staying contempt order pending appeal), *overruled on other grounds by Sazama* v. *State ex rel. Muilenberg*, 729 N.W.2d 335, 343 (S.D. 2007); *Black* v. *Div. of Child Support Enforcement*, 686 A.2d 164, 167 (Del. 1996) (family court postponed ruling on contempt order pending answer of a certified question); *McBride* v. *McBride*, 431 S.E.2d 14, 15 (N.C. 1993) (defendant released pending appeal); *Colson* v. *State*, 498 A.2d 585, 586 (Me. 1985) (court stayed commitment order pending appeal); *Rutherford* v. *Rutherford*, 464 A.2d 228, 232 n.3 (Md. 1983) (circuit court stayed enforcement of contempt order pending appeal); *McNabb* v. *Osmundson*, 315 N.W.2d 9, 10-11 (Iowa 1982) (court suspended contempt confinement pending motion and certiorari); *In re Calhoun*, 350 N.E.2d 665, 667 (Ohio 1976) (declining to find case moot because appellant had been released on his own recognizance pending appeal and was thus still under restraint); *Duval* v. *Duval*, 322 A.2d 1, 2 (N.H. 1974) (contempt order stayed pending appeal).

b. Moreover, petitioner cannot show that he will likely be confined again without having had counsel. "[I]t is a matter of speculation whether [petitioner] will again [even] find himself prosecuted for contempt unless he deliberately violates the [child-]support order," and a nonsupporting father cannot establish jurisdiction by announcing a plan "to flout the order." *Mann* v. *Hendrian*, 871 F.2d 51, 53 (7th Cir. 1989) (Posner, J.) (rejecting Article III standing to challenge fully served child-support contempt confinement).[7] This Court should instead presume that petitioner will make good-faith efforts to pay whatever he can toward his child-support obligations. If he "pa[ys] each week as much child support as he c[an] afford," even if it is less than the full amount owed, he cannot be held in contempt. *Moseley* v. *Mosier*, 306 S.E.2d 624, 626 (S.C. 1983).

Furthermore, Mr. Enderlin represented petitioner at the April 2010 hearing and before this Court. Thus, it is far from certain that petitioner will face another civil-contempt hearing *pro se*. *See Boyd* v. *Justices of Special Term*, 546 F.2d 526, 527 (2d Cir. 1976) (per curiam) (dismissing as moot constitutional claim of right to appointed counsel after plaintiffs found pro bono counsel).

---

[7] *Cf. Spencer*, 523 U.S. at 15-17; *Los Angeles* v. *Lyons*, 461 U.S. 95, 106-07, 110 (1983); *O'Shea* v. *Littleton*, 414 U.S. 488, 497 (1974).

c. The capable-of-repetition-yet-evading-review rule "applies only in exceptional situations." *Spencer*, 523 U.S. at 17 (internal quotation marks omitted). This Court has applied it in specific substantive areas where disputes are necessarily time-limited and disclaiming jurisdiction would foreclose resolving constitutional issues – particularly those involving elections, abortions, suits by the press, and challenges to administrative orders. *See, e.g.*, *FEC* v. *Wis. Right to Life, Inc.*, 551 U.S. 449, 462-63 (2007) (electioneering restriction); *Brock* v. *Roadway Express, Inc.*, 481 U.S. 252, 258 (1987) (plurality opinion) (challenge to preliminary order); *Press-Enter. Co.* v. *Superior Ct.*, 478 U.S. 1, 6 (1986) (media access to pretrial transcript); *Roe* v. *Wade*, 410 U.S. 113, 125 (1973) (abortion).

These classes of cases (1) seek prospective redress and (2) cannot be stayed. Pregnancies cannot be stayed. Realistically, neither can elections. Administrative review of preliminary orders does not necessarily stay those orders. *See, e.g.*, *Brock*, 481 U.S. at 255. Criminal trials cannot be stayed pending media appeals without interfering with defendants' speedy-trial rights. *Cf.* Petr. Br. 22.

Here, in contrast, petitioner seeks an advisory opinion. There is no obstacle to staying civil-contempt confinement, and petitioner pleads no prayer for prospective redress or even damages. Vacatur of his contempt finding would afford him no tangible benefit, as it "cannot conceivably remedy any past wrong." *Steel Co.* v. *Citizens for a Better Env't*, 523 U.S. 83,

108 (1998). Petitioner cites no case, and we have found none, where the capable-of-repetition exception has been applied to a direct appeal from an order of confinement seeking only retroactive relief, such as vacatur.

d. Petitioner asks this Court, in effect, to ignore its usual mootness rules in order to avoid "penaliz[ing]" him for lacking counsel in the trial court. Br. 23. But petitioner had counsel during eleven months of his twelve-month confinement; counsel could have sought a stay pending appeal. Petitioner and other contemnors can do so in the future (and he is now on notice that such stays are available).

Moreover, mootness is not a penalty for a litigant's behavior, but rather a structural limit on "[t]he judicial Power" under Article III. The case-or-controversy requirement "preserves the vitality of the adversarial process" by ensuring a continuing "stake in the outcome" and an appropriately "proper, limited role" for the federal judiciary. *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 581 (1992) (Kennedy, J., concurring in part and concurring in the judgment). Other live cases will continue to present more concrete vehicles for reviewing the right-to-counsel issue.[8]

---

[8] Furthermore, petitioner and other contemnors can prevent the issue from evading review by litigating their claims through other avenues, such as § 1983 suits and class actions, which enjoy relaxed mootness rules. *See Alvarez*, 130 S. Ct. at 580; *Lyons*, 461 U.S. at 109; *Gerstein* v. *Pugh*, 420 U.S. 103, 110-11 n.11 (1975).

II. The Categorical Right to Counsel Under the Sixth Amendment Is Limited to Criminal Prosecutions, Not *Pro Se* Child-Support Enforcement Proceedings

The text of the Sixth Amendment provides: "In all *criminal prosecutions*, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence." U.S. Const. amend. VI (emphasis added). Petitioner attempts to apply this Court's rulings in a host of Sixth Amendment cases to this civil case, wrenching their language out of their criminal context. Only criminal defendants enjoy a categorical right to counsel to protect them from oppression by state prosecutors seeking to brand them criminals. As its text makes clear, the Sixth Amendment right flows from the complexity and imbalance of power "[i]n all criminal prosecutions," not just from potential loss of liberty. The remedial civil-contempt hearing below was not a criminal prosecution.

Petitioner cannot convert a civil proceeding into a criminal one *ex post* simply by alleging that criminal procedures might have reduced the risk of error. This Court should reject petitioner's effort to disregard the civil/criminal line and slide down a slippery slope that could require extending a host of criminal procedures to civil cases.

A. Potential Loss of Liberty Does Not Turn a Civil Case Into a Criminal Case

The Sixth Amendment is expressly limited to "criminal prosecutions." The Due Process Clause incorporates the Sixth Amendment completely against the states, including its limitation to criminal cases. *See McDonald* v. *City of Chicago*, 130 S. Ct. 3020, 3034-36 & n.12 (2010) (interpreting *Gideon* v. *Wainwright*, 372 U.S. 335, 341, 343 (1963)).

1. This Court has previously rejected petitioner's argument that the Sixth Amendment requires the appointment of counsel whenever a person may lose his liberty. For instance, in *Middendorf* v. *Henry*, this Court refused to apply the Sixth Amendment to summary courts-martial that could result in thirty days' confinement at hard labor. 425 U.S. 25, 34-35 (1976). *Middendorf*'s reasoning was not narrowly confined to military proceedings, but repeatedly embraced civilian ones as well. "[E]ven in a civilian context the fact that a proceeding will result in loss of liberty does not *ipso facto* mean that the proceeding is a 'criminal prosecution' for purposes of the Sixth Amendment." *Id.* at 37; *accord id.* at 35. A civilian proceeding that results in loss of liberty does not trigger the Sixth Amendment's guarantee of counsel, as long as it has some elements that "sufficiently distinguish it from a traditional civilian criminal trial." *Id.* at 38. Like a child-support civil-contempt hearing, a summary court-martial is "procedurally quite different from a criminal trial." *Id.* at 40. Both are "brief, informal hearing[s]," so defense lawyers

are not needed to make them fundamentally fair. *Id.* at 45; *accord id.* at 40-41. The "touchstones" of Sixth Amendment analysis include the complexity and formality of proceedings, *id.* at 40-41, not simply loss of liberty. *See also Allen* v. *Illinois*, 478 U.S. 364, 372-74 (1986) (noting that involuntary civil commitment of sexual predators "does not itself trigger the entire range of criminal procedural protections" because it is not criminal).

The Sixth Amendment cases cited by petitioner (Br. 27-30) all presuppose a criminal prosecution. These cases hold only that loss of liberty is a *necessary* condition for a right to appointed counsel in criminal cases, not a *sufficient* one in noncriminal cases. They do not suggest that the Sixth Amendment right applies beyond its criminal ambit, let alone to a *pro se* mother's enforcement of a child-support order against a nonsupporting father.

2. Though petitioner claims that this Court "reject[s] formalistic distinctions between criminal and civil proceedings" (Br. 33), the Sixth Amendment's textual limitation to adversarial criminal prosecutions "is not 'mere formalism.'" *Rothgery* v. *Gillespie Cnty.*, 554 U.S. 191, 198 (2008) (quoting *Kirby* v. *Illinois*, 406 U.S. 682, 689 (1972) (plurality opinion)). It recognizes the need to check the awesome power of government prosecutors before they brand citizens criminals. Governments "quite properly spend vast sums of money to establish machinery to try defendants accused of crime" and to hire "[l]awyers to prosecute" them. *Gideon*, 372 U.S. at 344. Complex rules of

evidence and pleading at jury trials require lawyers to navigate their intricacies. *Id.* at 344-45 (quoting *Powell* v. *Alabama*, 287 U.S. 45, 68-69 (1932)).

"[T]he average defendant does not have the professional legal skill to protect himself when brought before a tribunal with power to take his life or liberty, *wherein the prosecution is presented by experienced and learned counsel*." *Johnson* v. *Zerbst*, 304 U.S. 458, 462-63 (1938) (emphasis added). Petitioner twice quotes the first half of this sentence but omits the crucial italicized phrase. Br. 16, 28. The Sixth Amendment right thus does not attach until "the accused 'finds himself faced with the prosecutorial forces of organized society, and immersed in the intricacies of substantive and procedural criminal law.'" *Rothgery*, 554 U.S. at 198 (quoting *Kirby*, 406 U.S. at 689 (plurality opinion)). Without defense lawyers, criminal defendants would oppose professional state prosecutors alone, within a complex procedural and evidentiary system.

Even though the Sixth Amendment applies to "all criminal prosecution[s]," this Court has limited the right to appointed counsel to prosecutions in which actual imprisonment is imposed. *Scott* v. *Illinois*, 440 U.S. 367, 373-74 (1979). This Court crafted the actual-imprisonment limitation because of prudential concerns about "workab[ility]," "confusion," and "unpredictable, but necessarily substantial, costs." *Id.* at 373.

Petitioner seeks to turn this Court's Sixth Amendment jurisprudence on its head. He urges this Court to disregard the Sixth Amendment's and *Gideon*'s explicit requirement of a criminal prosecution. Instead, he asks this Court to convert the actual-imprisonment *limitation* on Sixth Amendment rights into a wellspring of new, atextual constitutional rights for civil litigants. This Court should reject his invitation to disregard the Sixth Amendment's text.[9]

---

[9] This Court has long recognized "[c]riminal contempt [as] a crime in the ordinary sense." *Bloom* v. *Illinois*, 391 U.S. 194, 201 (1968). Because criminal-contempt defendants face state prosecution and the danger of imbalanced, oppressive proceedings, this Court has interpreted due process in accordance with the Sixth Amendment as forbidding state interference with a criminal-contempt defendant's use of retained counsel. *In re Oliver*, 333 U.S. 257, 259, 275 (1948); *Cooke* v. *United States*, 267 U.S. 517, 537-38 (1925) (noting that trial court had brought in federal prosecutor because the case was criminal but had "refused [the criminal contemnor] time to secure and consult counsel"); *see also Int'l Union, United Mine Workers of Am.* v. *Bagwell*, 512 U.S. 821, 826 (1994) (interpreting *Cooke* as recognizing the right to counsel because it was a criminal case); *Anonymous Nos. 6 & 7* v. *Baker*, 360 U.S. 287, 294-95 (1959) (interpreting *Oliver* as recognizing "a constitutional right to counsel in a criminal contempt proceeding, growing out of a state investigation"). Petitioner errs in seeking to extend these criminal-contempt precedents to require appointed counsel for civil contemnors. Petr. Br. 29-30.

B. Child-Support Civil-Contempt Proceedings Are Not Criminal Prosecutions

1. "Criminal contempt proceedings, *unlike civil proceedings*, could require such protections as the Sixth Amendment right to counsel. . . ." 27 James Wm. Moore et al., *Moore's Federal Practice* § 642.03[1], at 642-14 (3d ed. 2010) (emphasis added). In this Court, petitioner intimates for the first time that the proceeding below amounted to criminal rather than civil contempt. Br. 38-42; Pet. 29 n.20. That issue was not preserved below, is outside the question presented, and is meritless.

A state's classification of its proceedings as civil or criminal provides "strong guidance" as to its nature, which petitioner can rebut only by offering "the clearest proof" that the state's description is incorrect. *Hicks ex rel. Feiock* v. *Feiock*, 485 U.S. 624, 631 (1988) (internal quotation marks omitted). The "critical features are the substance of the proceeding and the character of the relief that the proceeding will afford." *Id.* Criminal contempt is intended to punish; civil contempt is "intended to be remedial by coercing the defendant to do what he had refused to do." *Gompers* v. *Bucks Stove & Range Co.*, 221 U.S. 418, 442 (1911). Criminal contempts vindicate courts' and governments' interests, while civil contempts are primarily for the benefit of those "'individuals whose private rights and remedies they were instituted to protect or enforce.'" *Bessette* v. *W.B. Conkey Co.*, 194 U.S. 324, 328 (1904) (quoting *In re Nevitt*, 117 F. 448, 458 (8th Cir. 1902)). When the "relief provided is a

sentence of imprisonment, it is remedial if 'the defendant stands committed unless and until he performs the affirmative act required by the court's order,' and is punitive if 'the sentence is limited to imprisonment for a definite period.'" *Hicks*, 485 U.S. at 632 (quoting *Gompers*, 221 U.S. at 442).

A "paradigmatic coercive, civil contempt sanction" is jailing a defendant for refusing to pay alimony "until he complies." *Bagwell*, 512 U.S. at 828 (citing *Gompers*, 221 U.S. at 442);[10] *see also Chadwick* v. *Janecka*, 312 F.3d 597, 613 (3d Cir. 2002) (Alito, J.) (holding that confined contemnor in alimony case had no right to criminal procedures). Refusal to pay alimony is indistinguishable from petitioner's refusal to pay child support.

This Court has focused on the presence of a purge clause as dispositive. Where a contemnor can "purge the contempt and obtain his relief by committing an affirmative act, [he] thus 'carries the keys of his prison in his own pocket.'" *Bagwell*, 512 U.S. at 828 (quoting *Gompers*, 221 U.S. at 442 (internal quotation marks omitted)). Therefore, "[i]f the relief imposed . . . is in fact a determinate sentence with a purge clause, then it is civil in nature" and does not require criminal procedures. *Hicks*, 485 U.S. at 640 (child-support case). A contempt order accompanied by a purge

[10] Distinguishing the two forms of contempt may be more difficult when fines and injunctions regulating complex patterns of conduct are at issue. *See Bagwell*, 512 U.S. at 827, 838.

clause has long been recognized as "a civil remedy designed for the benefit of other parties and has quite properly been exercised for centuries to secure compliance with judicial decrees." *Shillitani* v. *United States*, 384 U.S. 364, 368 (1966) (quoting *Green* v. *United States*, 356 U.S. 165, 197 (1958) (Black, J., dissenting)).

That is exactly the case here. The family court, orally and in writing, informed petitioner that he could "purge himself of the contempt and avoid the sentence" by paying the child support he owed Mrs. Rogers. Pet. App. 18a; *accord id.* at 7a. The action petitioner had to perform was simple and well-defined. Petitioner was well aware of the purge clause: on four previous occasions, he had satisfied his obligations, purged his contempts, and avoided or terminated confinement. Because the child-support contempt order here contained a purge clause and was "'instituted to preserve and enforce the rights of private parties to suits,'" it was undeniably civil. *Bessette*, 194 U.S. at 328 (quoting *Nevitt*, 117 F. at 458).

2. Petitioner nevertheless posits the novel theory that if a judge errs in imposing civil contempt, the order "sounds in criminal contempt" and becomes unconstitutional because it lacked criminal procedures. Br. 40 (citing *Maggio* v. *Zeitz*, 333 U.S. 56, 72 (1948)); *see id.* at 41 ("Providing counsel . . . is necessary . . . to ensure that the proceeding is in fact not punitive, but appropriately *civil* in the first instance."). To solve this imagined problem, in which allegedly erroneous findings of fact would retroactively convert

civil-contempt cases into criminal ones, petitioner proposes appointing counsel in every case to "ensure that the proceeding remains civil." Br. 39.

This argument mischaracterizes this Court's precedents. A judge may impose civil-contempt sanctions unless and until it becomes "clearly established" that compliance is impossible. *Hicks*, 485 U.S. at 638 n.9. Even if an appeals court reverses a trial court's factual finding that a civil contemnor was able to comply, the civil-contempt case does not become a criminal one. The case remains civil, but the judgment must be reversed, just as when an appellate court reverses any other essential factual finding in a civil case.

To be sure, if the trial court declares that it is "punish[ing a contemnor] for refus[ing] to perform" "an impossibility," then the confinement is not conditional and the civil contemnor must be released. *Maggio*, 333 U.S. at 59 (internal quotation marks omitted). Similarly, if a contemnor is held in contempt for failure to testify before a grand jury and the contempt confinement continues even after the underlying grand jury proceeding has ended, "the rationale for the civil contempt vanishes, and the contemnor has to be released." *Shillitani*, 384 U.S. at 372.

Petitioner's case, however, is nothing like *Maggio* or *Shillitani*. Unlike the judge who declared that Maggio could not comply, here Judge Cain specifically found petitioner in willful contempt, Pet. App. 18a, making an "implied finding" that petitioner had not

proven that he was unable to pay. *Rylander*, 460 U.S. at 760. And while it was utterly impossible for Shillitani to comply with the court order once the grand jury had been dismissed, there was no impossibility here. Though petitioner argues that he "was unable to pay" (Br. 2), neither he nor his counsel on appeal presented any evidence supporting that claim. Nor did they press that claim on appeal, though South Carolina law allowed them to do so. *See supra* p. 15. When a contemnor claims that he cannot comply but fails to establish or even press that claim, the case remains civil. *See, e.g.*, *Rylander*, 460 U.S. at 757. Every contemnor could allege inability to comply; accepting such bare assertions would eradicate the long-standing distinction between criminal and civil contempt.

Moreover, even if compliance is or becomes impossible, that does not convert a civil contempt into a criminal one. Though the sentence in *Shillitani* later became unconditional, this Court held that "the character and purpose of these actions clearly render them civil rather than criminal contempt proceedings." 384 U.S. at 368. Thus, the criminal procedures of indictment and jury trial were not required. *Id.* at 365; *see also Maggio*, 333 U.S. at 68 ("We thus have before us now a civil contempt," not a criminal one).

In short, even if a judge imposes a civil contempt in error, it is simply an erroneous civil contempt. Courts judge the nature of contempts *ex ante*, based on whether the confinement order contains a purge clause with which the court considers it possible to

comply and obtain release, and whether the remedy runs to the injured party. *Hicks*, 485 U.S. at 631-32. One cannot invalidate a contempt finding *ex post* simply by alleging that a possible fact-finding error retroactively converted the entire proceeding from civil to criminal, requiring criminal procedures in retrospect.

C. Extending the Sixth Amendment Right From Criminal to Civil Cases Would Lead Down a Slippery Slope

Petitioner's position, if adopted, would flood courts with litigation seeking to extend other criminal protections to civil cases. Hundreds of thousands of cases concerning immigration and customs detention, post-conviction collateral attacks, or extradition may involve loss of liberty, but none has been treated as a criminal proceeding. U.S. Br. 31-32 (noting that petitioner's logic would require appointing counsel in immigration proceedings, "conflict[ing] with Congress's express" rejection of any such right in 8 U.S.C. § 1362 (2006)); *Chewning* v. *Rogerson*, 29 F.3d 418, 421 (8th Cir. 1994) ("It is well settled that extradition proceedings are not considered criminal proceedings that carry the sixth amendment guarantee of assistance of counsel."). Parties to these civil proceedings are not currently afforded criminal-procedure protections such as the rights to appointed counsel, a jury, a speedy and public trial, and proof beyond a reasonable doubt. Courts would face endless line-drawing decisions about whether to extend other criminal procedures to

civil-contempt and other civil proceedings. Litigants would be free to mount collateral attacks, alleging ineffective assistance of counsel (whether appointed or retained) in a variety of civil cases.

Petitioner cannot avoid this slippery slope by suggesting that "the unique role that appointed counsel can play in preserving the civil character of a contempt proceeding also distinguishes the right to appointment of counsel from other [criminal-procedure] safeguards." Br. 41 n.23. Other criminal-procedure safeguards could play equally important roles. Jury trials could help to improve accuracy and reduce anti-defendant errors. Shifting the burden of proof to the plaintiff, or even requiring her to prove the alleged contemnor's willfulness beyond a reasonable doubt, would be a much stronger safeguard against erroneous contempt findings than appointing counsel. *See In re Winship*, 397 U.S. 358, 363 (1970) ("The reasonable-doubt standard . . . . is a prime instrument for reducing the risk of convictions resting on factual error."). Yet none of these criminal procedures is required in civil-contempt cases. *Bagwell*, 512 U.S. at 827; *Hicks*, 485 U.S. at 637-38 (recognizing that state can place burden of persuasion on civil contemnor who claims inability to pay child support).

Extending the right to appointed counsel to civil cases could throw these precedents into doubt, leaving states with little guidance. "It is of great importance to the States that they be able to understand clearly and in advance the tools that are available to

them in ensuring swift and certain compliance with valid court orders." *Hicks*, 485 U.S. at 636. Blurring the civil/criminal line "would create novel problems where now there are rarely any – novel problems that could infect many different areas of the law." *Id.* at 637.

This Court has been down this road before and had to turn back. In *United States* v. *Halper*, this Court disregarded the civil/criminal distinction and upheld a civil double jeopardy claim. 490 U.S. 435, 447 (1989). *Halper* led to a "wide variety of novel double jeopardy claims," including claims that revocation of a pilot's license, SEC debarment, and eviction from public housing violated the Double Jeopardy Clause. *Hudson* v. *United States*, 522 U.S. 93, 98 & n.4 (1997). *Halper*'s effort to denominate some civil penalties as punitive quickly proved "ill considered" and "unworkable," so this Court in *Hudson* repudiated *Halper*'s approach only eight years later. *Id.* at 96, 101-02. That experience cautions against repeating *Halper*'s error here.

III. Due Process Does Not Create a *Per Se* Right to Appointed Counsel in All Cases That May Result in Confinement, or Even in All Child-Support Civil-Contempt Proceedings

Due process "expresses the requirement of 'fundamental fairness.'" *Lassiter* v. *Dep't of Soc. Servs.*, 452 U.S. 18, 24 (1981). A defendant may assert either

a *per se* due process right to appointed counsel given the nature of the proceedings, or a case-specific claim that the denial of counsel made his particular proceeding fundamentally unfair. *Gagnon*, 411 U.S. at 788-90. Petitioner raises only a *per se* claim. But he fails to prove that without appointed counsel, child-support civil-contempt proceedings are fundamentally unfair in "the generality of cases, not the rare exceptions." *Mathews*, 424 U.S. at 344.

A. There Is No Automatic or Presumptive Right to Counsel in All Civil Cases Involving Deprivation of Liberty

1. While "criminal prosecutions" require appointment of counsel by virtue of the Sixth Amendment's categorical guarantee, other proceedings do not. *See Gagnon* v. *Scarpelli*, 411 U.S. 778, 788-89 (1973). "[D]ue process is flexible and calls for such procedural protections as the particular situation demands." *Morrissey* v. *Brewer*, 408 U.S. 471, 481 (1972). "The very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation." *Lujan* v. *G&G Fire Sprinklers, Inc.*, 532 U.S. 189, 196 (2001) (quoting *Cafeteria & Rest. Workers Union* v. *McElroy*, 367 U.S. 886, 895 (1961)).

Thus, this Court has declined to recognize a categorical right to counsel even in cases potentially involving loss of liberty. *See, e.g.*, *Gagnon*, 411 U.S. at 782-90; *Parham* v. *J.R.*, 442 U.S. 584, 606-07, 610-11

n.18 (1979) (commitment of minor to mental hospital does not require counsel); *Middendorf*, 425 U.S. at 48.[11] For example, in *Gagnon* this Court found "no justification for a new inflexible constitutional rule with respect to the requirement of counsel" in all probation-revocation hearings, even though the "loss of liberty . . . is a serious deprivation." 411 U.S. at 790, 781. "While such a [categorical] rule has the appeal of simplicity, it would impose direct costs and serious collateral disadvantages without regard to the need or the likelihood in a particular case for a constructive contribution by counsel." *Id.* at 787.

2. Contrary to petitioner's claim, *Lassiter* did not establish "a 'presumption' in favor of appointment of counsel" whenever loss of liberty is possible. Petr. Br. 33 (quoting *Lassiter*, 452 U.S. at 26). In rejecting a mother's claimed right to counsel before her parental rights could be terminated, this Court found a "presumption that there is *no* right to appointed counsel in the absence of *at least* a potential deprivation of physical liberty." 452 U.S. at 31 (emphases added); *accord id*. at 26-27.

Petitioner commits a logical fallacy in relying on *Lassiter* for the inverse proposition: that whenever a

---

[11] *Cf. Vitek* v. *Jones*, 445 U.S. 480, 497-500 (1980) (Powell, J., controlling concurrence) (holding that prisoner's involuntary transfer to mental hospital does not trigger a *per se* right to counsel, but allowing a psychiatrist or layman to represent him instead, "particularly" because a prisoner in this type of proceeding will often be of unsound mental "capability").

litigant faces potential deprivation of physical liberty, there is a presumption *in favor of* appointing counsel. Since *Lassiter* itself did not involve a threat of confinement, this Court had no occasion to hold – and did not hold – that when loss of liberty is at stake, there is a presumption in favor of appointing counsel. On the contrary, *Lassiter* expressly adopted *Gagnon*'s conclusion that a case-by-case approach to appointing counsel suffices to protect constitutional rights, even a mother's right to raise her own child. *Id.* at 31-32 (quoting *Gagnon*, 411 U.S. at 788).

3. This Court has never recognized a categorical right to counsel outside a traditional criminal prosecution, with the unique exception of juvenile-delinquency proceedings, which are criminal in all but name. *In re Gault*, 387 U.S. 1, 36, 41 (1967); *see Gagnon*, 411 U.S. at 789 n.12 (reading *Gault* as recognizing right to appointed counsel because juvenile-delinquency proceeding, "while denominated civil, was functionally akin to a criminal trial").

Gault recognized such a right because it involved (a) a prosecution brought by an experienced criminal-justice professional against an unrepresented minor;[12] (b) an *unconditional* sentence of six years' confinement; and (c) "only slightly less stigma" than a

[12] Minors lack the capacity to sue or defend suits without a representative, next friend, or guardian ad litem. Fed. R. Civ. P. 17(c). The law thus recognizes that minors categorically require representation while adults do not.

criminal conviction, including a record of delinquency that would be furnished to employers and law-enforcement agencies. 387 U.S. at 7-9, 23-25, 36. All three factors combined made the juvenile-delinquency proceedings "'comparable in seriousness to a felony prosecution'" and so in "need [of] criminal due process safeguards," including appointed defense counsel. *Winship*, 397 U.S. at 366, 368 (quoting *Gault*, 387 U.S. at 36). None of those factors is present here.

B. Historic Civil-Contempt Procedures Enjoy a Strong Presumption of Constitutionality and Do Not Require a Categorical Right to Appointed Counsel to Make Them Fundamentally Fair

In *Medina* v. *California*, this Court held that where state criminal procedures are "grounded in centuries of common-law tradition, it is appropriate to exercise substantial deference to legislative judgments in this area." 505 U.S. 437, 446 (1992). *Medina* declined to apply the *Mathews* due process test to such procedures. Instead, it applied a strong presumption of constitutionality that could be overcome only by showing that the challenged procedure "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked fundamental." *Id.* at 445 (internal quotation marks omitted).

The same deferential approach should apply to civil procedures in areas of predominantly state

concern with deep roots in judicial tradition. Historically, states have played a preeminent role in family-law matters, as recognized by the domestic-relations exception to federal jurisdiction. *Ankenbrandt* v. *Richards*, 504 U.S. 689, 694-95, 703 (1992); *McIntyre* v. *McIntyre*, 771 F.2d 1316, 1317-18 (9th Cir. 1986) (Kennedy, J.). Civil contempt itself is a long-standing and necessary power to protect private litigants and compel performance of legal obligations. It dates back four centuries, to the Court of Chancery in seventeenth-century England. David Eady & A.T.H. Smith, *Arlidge, Eady & Smith on Contempt* 13, at 1-41 (2d ed. 1999). To this day, "courts have inherent power to enforce compliance with their lawful orders through civil contempt." *Shillitani*, 384 U.S. at 370. Without this power, "courts could not administer public justice or enforce the rights of private litigants." *Gompers*, 221 U.S. at 450.

Petitioner thus errs in asking this Court to apply *Mathews*'s three-pronged balancing test. Br. 43-50. This Court has "never viewed *Mathews* as announcing an all-embracing test for deciding due process claims." *Dusenbery* v. *United States*, 534 U.S. 161, 168 (2002). *Mathews* arose "in the context of modern administrative procedures, [where] there was no historical practice to consider." *Medina*, 505 U.S. at 453-54 (O'Connor, J., concurring).

Nothing about routine *pro se* civil-contempt proceedings "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked fundamental." *Medina*, 505 U.S. at

446. Petitioner points to no historic tradition of appointing counsel in civil-contempt cases, and we can find none. The factual issues are simple; the rules of procedure and evidence are relaxed; and neither party is represented by counsel. *See infra* pp. 50-54. Indeed, providing counsel across the board would make proceedings less fair. Indigent mothers seeking child support cannot afford to hire lawyers. Introducing lawyers on one side but not the other would tilt the playing field; add delay, expense, and complexity (*see* U.S. Br. 28); and likely result in fewer, slower recoveries for needy mothers and their children.

C. Even If It Applied, the *Mathews* Balancing Test Would Not Support a Categorical Right to Counsel in All Child-Support Civil-Contempt Proceedings

Even if it applied in this context, *Mathews*'s balancing test would not require appointing counsel in all child-support civil-contempt proceedings brought by *pro se* plaintiffs. The question is not whether lawyers would be helpful, but whether not appointing lawyers across the board would violate "fundamental fairness." *Gagnon*, 411 U.S. at 790; *see also Lassiter*, 452 U.S. at 24-25. We have found no case in which this Court has recognized a categorical right to counsel

under *Mathews*. On the contrary, this Court has repeatedly rejected such claims.[13]

Mathews's balancing test assesses categories of cases sharing the same factual and procedural context. Thus, this Court framed the issue in *Mathews* in terms of "termination of Social Security disability benefit payments," not government benefits generally. 424 U.S. at 323; *see also id.* at 340-41 (distinguishing disability from welfare benefits in applying balancing test). Here, the relevant category is not all civil-contempt proceedings, but those brought by *pro se* parents to enforce child support. *Cf.* Petr. Br. 46-49 (focusing on specifics of child-support civil contempts); U.S. Br. 27-31 (same).

Child-support civil-contempt proceedings are straightforward, so lawyers are not essential to prevent errors. While nonsupporting fathers have significant liberty interests, they are adequately safeguarded by procedures simple enough to navigate without lawyers. On the other hand, the interests of custodial mothers, their children, and the government in prompt, effective child-support enforcement would be disserved by mandating lawyers across the board.

---

[13] The Court has applied due process balancing to reject claimed rights to appointed or even retained counsel. *See, e.g.*, *Walters* v. *Nat'l Ass'n of Radiation Survivors*, 473 U.S. 305, 307-08, 320-26 (1985); *Lassiter*, 452 U.S. at 31-32; *Parham*, 442 U.S. at 599-600, 606-07, 610-11 n.18; *see also Goss* v. *Lopez*, 419 U.S. 565, 583-84 (1975); *Wolff* v. *McDonnell*, 418 U.S. 539, 569-70 (1974); *Gagnon*, 411 U.S. at 790.

1. Fathers' Interests Are Adequately Protected by Straightforward Family Court Procedures

a. While civil contemnors have significant liberty interests in avoiding confinement, their interests are substantially weaker than those of criminal defendants. Civil contemnors face no criminal records or collateral consequences, often (as here) have sanctions capped at one year, and often (as here) can free themselves by purging their contempts immediately or through work release. Petitioner, for example, could have earned wages, discharged his arrearages, and freed himself after serving less than half of his maximum term of confinement.[14]

b. Because typical child-support civil-contempt proceedings are simple both factually and legally, "the risk of an erroneous deprivation" is already low, so "additional or substitute procedural safeguards" would have little value. *Mathews*, 442 U.S. at 335.

---

[14] There is no record evidence that petitioner asked to participate in work release or that he would have been prevented from doing so. *Supra* p. 14 n.3. He had automotive, painting, and construction work experience. *Supra* p. 10. Around Easley, South Carolina, the lowest paying of these three is construction work, at a median wage of $13.20 per hour. *May 2009 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates*, Bureau of Labor Statistics, *available at* http://www.bls.gov/oes/current/oes_24860.htm#49-0000. At that rate, he would have earned $528 per forty-hour work week. After deducting 25% for taxes and expenses, and applying 70% of the remainder toward child support, petitioner could have paid $277.20 per week and discharged his arrearages by June 2008.

Gagnon rejected a categorical right to counsel in probation-revocation hearings. 411 U.S. at 790. Probation violations are usually already established or admitted; mitigating evidence is often "so simple as not to require either investigation or exposition by counsel"; and there are no state prosecutors, jury trials, or formal rules of evidence and procedure. *Id.* at 787, 789. Thus, probation-revocation hearings do not require counsel across the board as criminal trials do, *id.* at 790, even though years of confinement are at stake.[15]

The same considerations apply here. Most child-support contempt cases turn on only two issues: (1) Did the defendant pay? (2) Could he have paid? The first of these is a simple bookkeeping matter that will rarely be in dispute. *Cf.* JA 103a-132a (list of payments made and due); *Gagnon*, 411 U.S. at 787. Likewise, the obligor's inability to pay is a straightforward factual matter. "Just as '[n]o legal expertise is needed to [establish inability to afford counsel] under the Criminal Justice Act,' no legal expertise is generally required to establish inability to pay child-support arrears." U.S. Br. 28 (quoting *United States* v.

[15] In *Gagnon*, the premise of the Court's opinion was that the grant of probation is not "an act of grace" that could freely be withdrawn. 411 U.S. at 782 n.4 (internal quotation marks omitted). In other words, probationers have a legal right to remain free, though that right can be withdrawn (as it can for petitioner) if he fails to comply with certain conditions. *See* Pet. App. 23a-24a.

Bauer, 956 F.2d 693, 695 (7th Cir. 1992) (internal citation omitted)).[16]

Inability to pay is usually an obligor's only realistic defense. He can assert it himself by explaining his lack of funds. *See Maggio*, 333 U.S. at 75-76 ("[I]f he offers no evidence as to his inability to comply, or stands mute, he does not meet the issue."). Someone who lacked money would naturally explain that he cannot pay; he would not need a lawyer to tell him that or make that claim for him. Moreover, inability to pay is a straightforward matter of assets, employment, and other sources of income. W-2 forms, paycheck stubs, tax returns, and notes from doctors or employers are simple documents that obligors can bring and introduce themselves. *See* JA 50a (rule to show cause advising petitioner to "BRING PROOF OF EMPLOYMENT").

"This is a more sharply focused and easily documented decision" than a pure judgment of witness credibility. *Mathews*, 424 U.S. at 343. The rules of

---

[16] "[T]he legal or factual basis of the [underlying child-support] order" is "not open to reconsideration" or collateral attack in a civil-contempt proceeding. *Maggio*, 333 U.S. at 68-69; *see* 42 U.S.C. § 666(a)(9)(C) (2006) (forbidding retroactive modification of child-support orders except in limited circumstances). Obligors can modify child-support orders prospectively, however, through separate proceedings. Indeed, petitioner's child-support order advised him of how to do so, and in South Carolina there is free legal help for *pro se* obligors who wish to modify their child-support obligations. *Supra* pp. 9, 5-6 & n.1; Pet. App. 23a.

evidence and procedure are relaxed and there are no jury trials. *See, e.g.*, S.C. Fam. Ct. R. 2(a), 7 (dispensing with authentication of common documents such as W-2 forms, paycheck stubs, and doctors' or employers' notes), 25 (restricting formal depositions and discovery). Third-party witnesses, motions, and evidentiary rulings are extremely rare, even when lawyers are involved. *See Rodriguez*, 102 P.3d at 51 ("[R]arely would defenses amount to more than marshaling the financial facts of whether he or she has made the required payments and conducting simple bookkeeping."); *State ex rel. Dep't of Hum. Servs.* v. *Rael*, 642 P.2d 1099, 1103 (N.M. 1982) ("The defendant is usually capable of marshalling the financial facts . . . [and] [t]he presence of a court-appointed attorney would do little to enhance the accuracy of the decisionmaking in most cases . . . .").

Petitioner also claims lawyers are essential to make legal arguments by, for example, construing the inability-to-pay defense. Br. 36-37 & n.21. But inability to pay is a simple, intuitive concept. Petitioner's appellate lawyers raised no such legal challenges, confirming that they are not contestable in the typical case. Only rarely do these cases involve technical issues such as res judicata or statutes of limitations. *Rael*, 642 P.2d at 1103-04.

The need for counsel here is far weaker than in *Lassiter*, where this Court nevertheless rejected a categorical right to counsel in proceedings to terminate parental rights. *Lassiter* recognized the extraordinary strength of a mother's liberty interest – the

"extremely important" and "unique kind of deprivation" that attends loss of parental rights. 452 U.S. at 31, 27. Moreover, *Lassiter* involved formal, adversarial proceedings against opposing state counsel, which required *pro se* litigants to examine and cross-examine witnesses and sometimes involved "[e]xpert medical and psychiatric testimony, which few parents are equipped to understand and fewer still to confute." *Id.* at 21-23, 30. *Lassiter*'s rejection of a categorical right to counsel *a fortiori* requires rejecting it here.

c. Inability to pay is essentially the same as inability to afford counsel. Neither determination itself requires counsel. Rather, inability to afford counsel is ordinarily a simple factual *prerequisite* to appointing counsel. A criminal defendant has no right to an appointed lawyer until he first proves that he cannot afford one. *See, e.g.*, 18 U.S.C. § 3006A(b) (2006); *United States* v. *Harris*, 707 F.2d 653, 660 (2d Cir. 1983). A defendant is not entitled to receive an appointed lawyer to help him prove that he is entitled to an appointed lawyer. *Bauer*, 956 F.2d at 695 (rejecting right to appointed counsel to help show qualification for appointed counsel). That would be circular.

d. Lawyers are unlikely to make a substantial difference in these simple proceedings. A recent randomized, controlled Harvard study of simple, nonjury litigation found no significant difference in success rates between litigants who were offered legal representation and those who were not. D. James Greiner

& Cassandra Wolos Pattanayak, *What Difference Representation?* 5, 8, 25-29 (Jan. 12, 2011) (unpublished manuscript), *available at* http://ssrn.com/abstract=1708664. The only important difference was that introducing lawyers delayed cases' resolution. *Id.* at 8-9, 29-33, 53-54, 68-70 (also concluding that most other studies are fatally flawed by nonrandom lawyer assignment, and noting that in one reliable earlier study, lawyer effects disappeared in informal proceedings); *see also Indiana* v. *Edwards*, 544 U.S. 164, 178 (2008) (noting that *pro se* felony defendants fare at least as well as represented ones).

During and for the purposes of this litigation, amicus Patterson conducted an empirical study purporting to find that *pro se* South Carolina family court defendants are disadvantaged and much more likely to be held in contempt. Patterson et al. Br. 6, 10-22. This Court should disregard that extra-record evidence, particularly because our own review of family court proceedings and records in Oconee and Anderson Counties, South Carolina, confirmed that the proceedings were highly informal, practical events designed to determine the simple facts of whether the defendant could pay, when, and how much. They involved no third-party witnesses or legal or evidentiary issues of the sort that either party would need a lawyer to address. And there was no reason to believe that when the defendant had a lawyer, the lawyer's presence

made a difference.[17] Thus, this Court should disregard amicus's mistaken and controverted conclusions.

e. Even if there were any technical legal issues for lawyers to address, requiring states to appoint counsel in every case would be unwarranted. In practice, given fiscal constraints, appointed lawyers would do little more than reiterate defendants' own

[17] Details of our method and the names of the 201 cases studied are at App. 56a-68a. Our other findings likewise contradict amicus's assertions: First, even when DSS appeared, it was only nominally a party and (with a single one-sentence exception) merely responded to the judge's administrative questions about the mechanics of child-support payments. Judges handled all questioning, directing all case-specific factual questions solely to the parties. Second, at every hearing observed, the judges asked "wholly retrospective factual question[s]." *Gagnon*, 411 U.S. at 784. Third, the judges never enforced the rules of evidence, admitting any evidence an obligor wanted to introduce to excuse nonpayment. *Pro se* litigants frequently introduced documents such as employers' or doctors' notes and so avoided confinement. Fourth, judges calibrated purge amounts and dates to what obligors said they could pay and when. Thus, while many were held in contempt, far fewer were actually confined.

Finally, in the few cases where litigants were represented by attorneys, there was no evidence that the attorneys made motions, argued rules of evidence, construed statutes, made other technical arguments, or questioned witnesses. They merely narrated why their clients could not pay. Their most lawyerly acts were requests for continuances. Of the fourteen cases with some reference to an attorney, in at least nine the attorney appeared to be a workers' compensation or disability attorney who did nothing more than inform the family court of the obligor's pending disability claim. Because the presence of counsel was strongly correlated with claimed disabilities, one cannot infer that the lawyers, rather than the disabilities, altered outcomes.

narrative accounts of their employment and illnesses. Petitioner's own amicus reports that when lawyers are appointed in child-support cases, they are often too overburdened to provide much help. "In many of the courtrooms we watched, these attorneys would call out their client's name as the court room filled with cases, meeting the client for the first time just prior to the hearing." Rebecca May & Marguerite Roulet, Ctr. for Fam. Pol'y & Practice, *A Look at Arrests of Low-Income Fathers for Child Support Nonpayment* 45 (2005). "For many noncustodial parents . . . the costs [of paying lawyers] add to an existing burden without a tangible gain. Lawyers with a high turnover in cases who have little time to get to know their clients stand little chance of building a case that could persuade a judge to be lenient . . . ." *Id.*

f. Finally, the possibility of a few "atypical cases with 'complex factual and legal issues'" does not justify appointing counsel across the board. U.S. Br. 29 (quoting Petr. Br. 46). "[P]rocedural due process rules are shaped by the risk of error inherent in the truthfinding process as applied to the generality of cases, not the rare exceptions." *Mathews*, 424 U.S. at 344. Courts have discretion to appoint counsel in exceptional cases or employ other procedures as safeguards. *Gagnon*, 411 U.S. at 790-91; U.S. Br. 24-27 & n.9; *infra* pp. 62-63.

In short, even if appointing counsel might bring marginal benefits, those gains would come at substantial costs, including complexity, rigidity, and delay. *Gagnon*, 411 U.S. at 787-89; *Gerstein*, 420 U.S.

at 122 n.23. "In most cases, . . . [these gains] would be too slight to justify holding" that the Constitution requires appointing counsel in every single case. *Gerstein*, 420 U.S. at 122; *accord Gagnon*, 411 U.S. at 787-90.

2. Mothers', Children's, and the Government's Interests in Fair, Effective Child-Support Enforcement Would Be Disserved by Appointing Counsel for All Nonpaying Fathers

a. Custodial parents have compelling interests in providing for their children. *See, e.g.*, *Parham*, 442 U.S. at 600-04 (weighing parents' interest in their children's "welfare and health"). A mother has a "commanding" interest in the custody and care of her child. *Lassiter*, 452 U.S. at 27. This Court has treated that interest as commensurate with probationers' liberty interests in avoiding years of confinement. *See M.L.B.* v. *S.L.J.*, 519 U.S. 102, 117 (1996).

Complicating and delaying *pro se* mothers' efforts to obtain child support jeopardizes their parental interests. Many mothers are poor and need prompt, reliable payments so they can care for and retain custody of their children. *See supra* p. 4; U.S. Census Bureau, *supra*, at 4-5. Indeed, Mrs. Rogers had to relinquish custody of B.L.P. at least in part because she could not provide for her without assistance. Contrary to petitioner's assertion, states find that civil-contempt proceedings are a highly effective

backstop. *See supra* pp. 7-8. The mere threat of civil contempt "is effective when nothing else will work and the [noncustodial parent] is working for cash or in the underground economy." OCSE Survey, *supra*. A nonpayor who is held in civil contempt has a strong incentive to purge the contempt, either by finding the money he owes or by engaging in work release. The prospect of confinement is so effective that most fathers purge their contempts and so avoid being confined. *See id.*

Requiring appointed counsel in every proceeding would delay collecting child-support payments. *See Gagnon*, 411 U.S. at 788. "'Within the limits of professional propriety, causing delay and sowing confusion not only are [the lawyer's] right but may be his duty.'" *Walters*, 473 U.S. at 325 (quoting Henry J. Friendly, *Some Kind of Hearing*, 123 U. Pa. L. Rev. 1267, 1287-90 (1975)). Children need daily care, and any delay in collecting child support jeopardizes their well-being.

Moreover, *pro se* custodial parents have a strong interest in enforcing their rights on a level playing field. Mothers have no right to appointed counsel and little access to lawyers. They need child support precisely because they cannot afford necessities, let alone lawyers. Adding lawyers would make proceedings more formal, more adversarial, more complex, and even slower. *Gagnon*, 411 U.S. at 787-88. Opposing counsel could well overwhelm an uneducated *pro se* mother or wear her down with continuances. If nonpaying parents are given a categorical right to

appointed counsel, the "contest of interests may become unwholesomely unequal." *Lassiter*, 452 U.S. at 28. Introducing counsel on only one side would unbalance proceedings, making them less fair, not more. *See* U.S. Br. 28.

b. State and federal governments share a strong interest in ensuring that custodial parents collect the child support they are due so that they can provide for their children. *See* U.S. Br. 1-2. Courts also have a strong interest in enforcing their judgments and preventing contemnors from flouting their obligations. *Gompers*, 221 U.S. at 450.

In addition, "the financial cost to the State [of recognizing a new right to counsel] will not be insubstantial." *Gagnon*, 411 U.S. at 788. As petitioner recognizes, courts would have to appoint counsel in every proceeding, regardless of the facts involved, the complexity of the case, or indeed whether the defendant sought counsel at all. Br. 19, 50 n.24. The funding for a new categorical right to counsel might well come from resources currently devoted to child-support enforcement or other important government programs. "[A]dditional complexity will undoubtedly engender greater administrative costs, with the end result being that less Government money reaches its intended beneficiaries." *Walters*, 473 U.S. at 326; *accord id.* at 321 n.9 ("'[A]t some point the benefit to individuals from an additional safeguard is substantially outweighed by the cost of providing such protection, and . . . the expense of protecting those likely to be found undeserving will probably come out of the

pockets of the deserving.'" (quoting Friendly, *supra*, at 1276)).

The additional expense will deter some states from using civil contempt to enforce child support. In fact, it already has. In the wake of a 2006 state-court ruling mandating appointed counsel in civil-contempt cases, New Jersey has been unable to fund such counsel. *Pasqua* v. *Council*, 892 A.2d 663, 674 (N.J. 2006); OCSE Survey, *supra*. Thus, New Jersey child-support officials must release nonsupporting parents who appear to qualify for appointed counsel, instead of enforcing child support through civil contempt. OCSE Survey, *supra*. When states use civil contempt less often, or more slowly, they must provide costly welfare assistance to many children as they await support from nonpaying parents.

State governments already struggle to satisfy criminal defendants' Sixth Amendment rights to counsel. South Carolina's budget for public defenders is stretched beyond capacity. *See* Patrick Donohue, *Solicitor Goes to Local Governments, Hat in Hand, Seeking Money to Offset Cuts*, Beaufort Gazette (Beaufort, S.C.), Mar. 24, 2009, at 1A, 5A. The same is true nationwide, as petitioner's own amici acknowledge. Am. Bar. Ass'n Standing Comm. on Legal Aid & Indigent Defendants, Gideon*'s Broken Promise: America's Continuing Quest for Equal Justice* iv-v (2004); Nat'l Right to Counsel Comm., The Constitution Project, *Justice Denied: America's Continuing Neglect of Our Constitutional Right to Counsel* 7 (2009).

To conserve scarce resources, Congress has specifically declined to fund appointed counsel in child-support civil-contempt cases. U.S. Br. 30-31. Likewise, South Carolina has reserved appointed counsel for criminal and unusually complex civil cases. *See* S.C. App. Ct. R. 608(g)(1) (announcing policy of limiting appointments to prevent "an undue burden on the lawyers of this State"); *Ex parte Foster*, 565 S.E.2d 290, 293 (S.C. 2002). This Court should defer to these federal and state legislative judgments about how best to allocate limited funds. *See Walters*, 473 U.S. at 319.

Imposing a civil *Gideon* requirement on public defenders and other appointed lawyers, on top of the existing strain of criminal cases, would make the overburdening and underfunding of criminal defense counsel worse. Governments are entitled to engage in triage, reserving free lawyers for those cases expressly included within the Sixth Amendment's criminal scope.

IV. While Due Process Provides for Appointing Counsel in Exceptional Cases Where Essential for a Meaningful Opportunity to Be Heard, Neither a Case-Specific Balancing-Test Claim Nor the Acting Solicitor General's Novel Suggestion of Additional Procedures Is Properly Before This Court

While there is "no justification for a new inflexible constitutional rule with respect to the requirement of

counsel" in child-support civil-contempt cases generally, "the peculiarities of particular cases" may call for narrower remedies. *Gagnon*, 411 U.S. at 790, 789. Courts could appoint counsel case by case or experiment with other procedures. These alternative claims, however, were not preserved below, are beyond the question presented, and are not properly presented here.

One possibility is that counsel could be appointed in unusually complex cases "on a case-by-case basis in the exercise of a sound discretion by the state authority charged with responsibility" for the system. *Gagnon*, 411 U.S. at 790. Indeed, South Carolina law authorizes court-appointed counsel in just such complex cases. *See* S.C. App. Ct. R. 608(g); *Foster*, 565 S.E.2d at 292-93 (remanding for determination whether action was "so complex" that failure to appoint lawyer would "unfairly hamper [respondent's] ability to defend his case").

A future litigant could also raise a due process challenge to the specific procedures used at his contempt proceeding, such as the particular forms used or the follow-up questions a particular judge asked. U.S. Br. 24-25. The United States raises this suggestion for the first time in this case as an amicus at the merits stage.

Neither of these case-specific claims, however, is before this Court. Petitioner waived both case-specific claims by failing to raise or develop them below. His

counsel's state-court appellate brief argued only for an "absolute" right to counsel in all "cases where the proceedings could result in a deprivation of physical liberty." Pet. App. 12a. It relied on *Lassiter*'s limitation of *Argersinger* v. *Hamlin*'s categorical rule. *Id.* at 11a-12a (citing 452 U.S. at 26 and 407 U.S. 25, 37, 40 (1972)). It never cited *Gagnon* or *Gagnon*'s case-specific balancing approach. Its argument referred to no facts, equities, or complexities specific to petitioner's case. *Id.* at 11a-15a. Nor did counsel develop the relevant facts or seek a hearing to develop them, which would be crucial to this Court's evaluation of either case-specific claim. Likewise, amici below framed the claim entirely as a *per se* "Sixth Amendment right to counsel." ACLU et al. Br. 1 (S.C. S. Ct.). Thus, the South Carolina Supreme Court was not presented with and did not pass upon either variety of case-specific due process claim.

By denying the state courts an opportunity to address any case-specific due process claim, petitioner has waived all such claims. "[I]t is 'the settled practice of this Court, in the exercise of its appellate jurisdiction, that it is only in exceptional cases, and then only in cases coming from the federal courts, that it considers questions urged by a petitioner or appellant not pressed or passed upon in the courts below.'" *Kentucky* v. *Stincer*, 482 U.S. 730, 747 n.22 (1987) (quoting *McGoldrick* v. *Compagnie Generale Transatlantique*, 309 U.S. 430, 434 (1940)).

Moreover, such case-specific claims are well beyond the question presented. *See* S. Ct. R. 14.1(a). Petitioner's certiorari petition framed the question

presented in categorical terms, limited to the "constitutional right to appointed counsel." Pet. i. His argument did not invoke his particular need for counsel, let alone other procedures. *Id.* at 11-32. And petitioner's merits brief explicitly asks for "a *categorical* right to counsel, not merely a case-by-case right that depends on the merit or complexity of the case or the defendant's capacity to speak effectively for himself." Br. 50 n.24. There is no jurisdiction to entertain other due process claims.

CONCLUSION

For the foregoing reasons, this Court should dismiss the writ for lack of jurisdiction, or in the alternative affirm the judgment of the South Carolina Supreme Court.

Respectfully submitted,

STEPHANOS BIBAS
Counsel of Record
JAMES A. FELDMAN
NANCY BREGSTEIN GORDON
AMY WAX
UNIVERSITY OF PENNSYLVANIA
LAW SCHOOL
SUPREME COURT CLINIC
3400 Chestnut Street
Philadelphia, PA 19104
(215) 746-2297
sbibas@law.upenn.edu

Counsel for Respondents

STEPHEN B. KINNAIRD
PANTEHA ABDOLLAHI
D. SCOTT CARLTON
ERIC A. LONG
PAUL, HASTINGS, JANOFSKY
& WALKER LLP
875 15th Street N.W.
Washington, DC 20005
(202) 551-1842

APPENDICES

IV-D

SOUTH CAROLINA
DEPARTMENT OF SOCIAL SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

ADMINISTRATIVE PROCESS

NOTICE OF FINANCIAL RESPONSIBILITY AND PATERNITY DETERMINATION

COUNTY OF ANDERSON
DOCKET NO. _____
CSED CASE NUMBER 0482527

TO:	EMPLOYER:
MICHAEL D. TURNER	Earl F. Wilbanks
[Home Address Omitted]	[Work Address Omitted]
Townville, SC 29689	Anderson, SC 29621

The Child Support Enforcement Division (Division), pursuant to S.C. Code Ann. Section 20-7-9505 et seq., notifies you that:

1. You are the natural father of and have a duty to support and provide for the medical needs of the following child(ren)

B.L.P. [Date Of Birth Omitted]

born to Rebecca L. Price and in the custody of Rebecca L. Price.

2. You are required to appear on May 25, 1999, at 11:30 AM for a negotiation conference to determine the amount of your duty of support. The negotiation

conference will be held at: Anderson County Family Court, 100 South Main Street, Anderson, SC.

3. You may assert the following objections in the negotiation conference:

A. You are not the parent of the dependent child(ren);

B. The dependent child(ren) was/were adopted by a person other than you;

C. The dependent child(ren) is/are emancipated; or

D. There is an existing court or administrative order for child support.

4. You may file a written denial of paternity with the Division within thirty (30) days after service of this Notice of Financial Responsibility and Paternity Determination. If you fail to timely deny this allegation of paternity, the question of paternity may be resolved against you without further notice.

5. If you timely deny the allegation of paternity:

A. You are subject to compulsory genetic testing and the expenses incurred for such tests may be assessed against you;

B. A genetic test may result in a presumption of paternity;

C. Upon receipt: of the genetic test results, if you continue to deny paternity, you may request that the Division refer the matter to family court for a determination of

> paternity pursuant to S.C.Code Ann. Section 20-7-9540. An order for child support resulting from a subsequent finding of paternity is effective from the date you were served with this Notice of Financial Responsibility and Paternity Determination.

6. If such objections are not resolved, at the negotiation conference, the Division will schedule a court hearing. A Notice of Hearing indicating the date, time and place will be provided to you.

7. The Division will establish all child support orders in accordance with the child support guidelines in S.C.Code Ann.Regs. 114-4710 through 114-4750, based on the parties' income. The Division may issue an administrative subpoena to obtain income information from you, or it may rely on wage statements, wage information from the Employment Security Commission, tax records and verified statements from the custodian. In the absence of such information, the Division will impute income based upon the child support guidelines.

8. The Division will establish an order for the provision of major medical health insurance, in accordance with the child support guidelines.

9. Costs of collection (service of process, genetic test costs, certified mail, and other court costs) may be collected from you.

10. The Division shall issue an order of default setting forth a determination of paternity and the

amount of your duty of support if the following occurs:

A. You fail to send the Division a timely written denial of paternity; or

B. You fail to appear for the negotiation conference scheduled above; or

C. You fail to reschedule the negotiation conference prior to the date and time stated in this notice; or

D. You fail to send the Division a written request for a court hearing before the time scheduled for the negotiation conference; or

E. You fail to appear for a rescheduled negotiation conference; or

F. You fail to take or appear for a scheduled genetic test; or

G. The, genetic test results show a 95% or greater probability that you are the father of the child(ren); and

1. You fail to appear for a subsequent negotiation conference; and

2. You fail to reschedule the subsequent negotiation conference prior to the date and time stated in the notice.

11. If an order of default establishing paternity and financial responsibility is issued, it shall be filed with the clerk of court in Anderson County.

12. When filed, the order of default has all the force, effect and remedies available for enforcement (for example, wage assignment, contempt, tax intercept or license revocation) as an order of the court.

13. No judgment is required to certify past-due child support to the Internal Revenue Service or State Department of Revenue for purposes of intercepting federal or state tax refunds.

14. You must notify the Division of any change of address or employment within ten (10) days following such change.

15. An order issued pursuant to S.C.Code Ann. Section 20-7-9505 et seq., or an existing order of the court or any other administrative order may be modified under S.C.Code Ann. Section 20-7-9505 et seq. in accordance with the Uniform Interstate Family Support Act, S.C.Code Ann. Section 20-7-960 et seq.

16. You may request a court hearing within thirty (30) days after the receipt of the Notice of Financial Responsibility and Paternity Determination. The request must be served upon the authorized designee for the Division, whose name and address is listed below. The request must be served by certified mail or in the same manner as a summons in a civil action.

17. If you have questions, you should telephone or visit the Division at the address below.

18. You have the right to consult an attorney and be represented by an attorney at the negotiation conference.

Dated: 3-19-99 /s/ M Jackson

Authorized Designee
for the Child Support
Enforcement Division

Greenville Regional Office
Post Office Box 1887
Greenville, SC, 29602-1887
(864) 241-1101

I Request the case against Michael Turner to be closed. Rebecca Price

5-26-99

OCONEE COUNTY LAW SYSTEM 09/20/10
ADD/UPDATE CONFINEMENT G100

ENTER FUNCTION ....
SOC SEC..... [Social Security Number Omitted]
SEQ # ..... 64657682 TYPE ... CELL.0000
DEL .....
NAME ..... TURNER MICHAEL DALE
RACE ..... W SEX .... M
BIRTH..... [Date Of Birth Omitted]
AGE..... 27 ETH ..... N HEIGHT.....5'06"
WEIGHT..... 0155 HAIR .... BRN EYES .... GRN
BORN IN ..... NC
DESC..... SCAR CORNER R/EYE //
BIRTHMARK R/BUTTOCK
ADDRESS..... [Home Address Omitted]
CITY/ST ..... [Home Address Omitted]
ALIAS..... NONE
DR LIC ..... [Drivers License Omitted] SC JOB CD ..
NEXT KIN .... JENNIE TURNER // WF
EMP/JOB ..... WEAVERS BRAKE SER
ADDRESS..... WESTMINSTER SC FINGER ....N
BOOKING..... C.O. LITTLETON, LESLIE J-19
PHOTO ..... Y
DATE ..... 02182004 TIME ... 1530
HOLDING .... DETENTION
ARREST..... ROWLAND, DONNIE 9304
ARREST..... OCSD
HOLD FOR.... N
RELEASE .... CPL. SHIRLEY, DALLAS J-7
AGENCY.....
REL DATE .... 02192004 TIME ... 0920

OCONEE COUNTY DETENTION
DETENTION [sic] CENTER
CONFINEMENT REPORT

AGENCY ID : DETENTION PAGE 1
S.S. # : [Social Security Number Omitted]
SEQ # : 64660223

TYPE/CELL : 0000 FINGER PRT : Y PHOTO : Y
DEF NAME : TURNER MICHAEL DALE
RACE : W SEX : M BIRTH : [Date Of Birth Omitted]
ADDRESS : [Home Address Omitted]
PHONE : (864) 000-0000
AGE : 27 ETH : N HEIGHT : 5'06"
WEIGHT : 0155 HAIR : BRN EYES : GRN
DESC : SCAR R EYE BIRTHMARK ON R BUTTOCK
ALIAS : NONE
DRIV LLC : [Drivers License Omitted]
SC PLACE OF BIRTH : NC
NEXT OF KIN : JENNI TURNER / WF
WESTMINSTER SC
EMPLOYER/OCCU. : S&W STUCCO
ARRST DATE/TIME : 10/20/2004 1000
ARREST. OFFICER : ROWLAND, DONNIE 9304
BOOKING OFFICER : CPL. SHIRLEY, DALLAS J-7

IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE

CHARGE - NON-SUPPORT
CHARGE : 03-DR-37-472
STATUTE :
BOND AMOUNT :
BOND TYPE : SENTENCED
BOND DATE : 10202004
DISPOSITION : CC CLERK OF COURT

	DAYS	AMOUNT
SENTENCE	: 000090	
TIME SERVED	: 000000	
GOOD TIME	: 000044	
BALANCE	: 000046	
PAID	: 000000	
RECEIPT NUMBER	: KNOEBEL	

HOLD FOR AGENCY :
RELEASE DATE : 10222004 TIME : 1130
RELEASING OFFICER : BROWN NO.
RELEASE AGENCY :

INMATES PERSONAL PROPERTY HISTORY

TOTAL CASH ON HAND

Booking Card

TURNER, MICHAEL DALE

Print Date/Time: 08/05/2010 14:30 OCONEE COUNTY DETENTION CENTER
Login ID: spruitt **ORI Number**: SC037023C
[Barcode]

Booking #: 2005-00001359 **Booking Date/Time:** 09/15/2005 18:48
Jacket #: 916 **Inmate #:**
Address: [Home Address Omitted] [Image]

Phone #: [Phone Number Omitted] **DOB:** [Date Of Birth Omitted] **Race:** WHITE (W)
SSN: [Social Security Number Omitted] **Age:** 33 **Sex:** MALE (M)
Hair Color: BRO **Eyes:** BLU **Height:** 5ft 7in **Weight**: 170.0

Prisoner Type: SENTENCED **Incarceration Reason:** SENTENCED
Facility: **Pod/Block:** **Cell:** **Bed:**

Contact: TURNER, JEANIE [sic] COX **Relationship:** SPOUSE **Phone #:**
Notified By: **Date/Time:**

Charge:
State: 13B 16-25-0020(A) (1) DOMESTIC/CRIMINAL DOMESTIC VIOLENCE
Offense/Charge Date: 09/15/2005 18:41 **Warrant Number:** **Court Date/Time:**
Case Tracking ORI: **Case Tracking #:** **Docket Number:**
Bond/Bail Set Type: **Bond/Bail Set Date:** **Bond/Bail Set Amt:**
Bond Posted By: **Bond Post Date:** **Bond Post Amt:**
Severest: No

Charge:
SC037013D 9059 F/C BENCH WARRANT FAMILY COURT BENCH WARRANT
Offense/Charge Date: 09/24/2005 16:32 **Warrant Number:** **Court Date/Time:**
Case Tracking ORI: **Case Tracking #:** **Docket Number:**
Bond/Bail Set Type: **Bond/Bail Set Date:** **Bond/Bail Set Amt:**
Bond Posted By: **Bond Post Date:** **Bond Post Amt:**
Severest: No

Charge:
State 13B COMMON LAW SIMPLE ASSAULT & BATTERY
Offense/Charge Date: 01/18/2006 14:00 **Warrant Number:** **Court Date/Time:**
Case Tracking ORI: **Case Tracking #:** **Docket Number:**
Bond/Bail Set Type: **Bond/Bail Set Date:** **Bond/Bail Set Amt:**
Bond Posted By: **Bond Post Date:** **Bond Post Amt:**
Severest: No

Release Date/Time: 01/25/2006 00:01 **Released By:** BW5572 – WALLIS
Release Reason: TIME SERVED **Released to ORI:**
Release To:

I will have opportunity to contact family or counsel
Inmate Signature: _____
Booking Officer(s): #_____ #_____
Reviewed By: #_____
_____

App. 11a

Booking Card

TURNER, MICHAEL DALE

Print Date/Time: 08/05/2010 14:30 OCONEE COUNTY DETENTION CENTER
Login ID: spruitt **ORI Number**: SC037023C
[Barcode]

Booking #: 2007-00004130 **Booking Date/Time:** 4/30/2008 14:56
Jacket #: 916 **Inmate #:**
Address: [Home Address Omitted] [Image]

Phone #: [Phone Number Omitted] **DOB:** [Date Of Birth Omitted] **Race:** WHITE (W)
SSN: [Social Security Number Omitted] **Age:** 33 **Sex:** MALE (M)
Hair Color: BRO **Eyes:** BLU **Height:** 5ft 7in **Weight**: 170.0

Prisoner Type: SENTENCED **Incarceration Reason:** SENTENCED
Facility: **Pod/Block:** **Cell:** **Bed:**

Contact: TURNER, JENNIE **Relationship:** SPOUSE **Phone #:**
Notified By: **Date/Time:**

Charge:
SC037013D 9059 F/C BENCH WARRANT FAMILY COURT BENCH WARRANT
Offense/Charge Date: 12/26/2007 15:19 **Warrant Number:** **Court Date/Time:**
Case Tracking ORI: **Case Tracking #:** **Docket Number:**
Bond/Bail Set Type: **Bond/Bail Set Date:** **Bond/Bail Set Amt:**
Bond Posted By: **Bond Post Date:** **Bond Post Amt:**
Severest: No

Release Date/Time: 12/19/2008 14:51 **Released By:** RF1879 – FOSTER
Release Reason: BOOKING ERROR **Released to ORI:**
Release To:

I will have opportunity to contact family or counsel
Inmate Signature: _____
Booking Officer(s): # _____ # _____
Reviewed By: # _____
_____
_____
Date/Time

App. 12a

Booking Card

TURNER, MICHAEL DALE

Print Date/Time: 08/05/2010 14:30 OCONEE COUNTY DETENTION CENTER
Login ID: spruitt **ORI Number**: SC037023C
[Barcode]

Booking #: 2009-00001282 **Booking Date/Time:** 04/24/2009 22:52
Jacket #: 916 **Inmate #:**
Address: [Home Address Omitted] [Image]

Phone #: [Phone Number Omitted] **DOB:** [Date Of Birth Omitted] **Race:** WHITE (W)
SSN: [Social Security Number Omitted] **Age:** 33 **Sex:** MALE (M)
Hair Color: BRO **Eyes:** BLU **Height:** 5ft 7in **Weight**: 170.0

Prisoner Type: SENTENCED **Incarceration Reason:** ARREST
Facility: **Pod/Block:** **Cell:** **Bed:**

Contact: TURNER, MARGIE **Relationship:** MOTHER **Phone #:**
Notified By: **Date/Time:** [Phone Number Omitted]

Charge:
SC037013D 9059 F/C BENCH WARRANT FAMILY COURT BENCH WARRANT
Offense/Charge Date: 04/24/2009 20:58 **Warrant Number:** **Court Date/Time:**
Case Tracking ORI: **Case Tracking #:** **Docket Number:**
Bond/Bail Set Type: **Bond/Bail Set Date:** **Bond/Bail Set Amt:**
Bond Posted By: **Bond Post Date:** **Bond Post Amt:**
Severest: No

Release Date/Time: 07/25/2009 00:01 **Released By:** BW5572 – WALLIS
Release Reason: TIME SERVED **Released to ORI:**
Release To:

I will have opportunity to contact family or counsel
Inmate Signature: _____
Booking Officer(s): #_____ #_____
Reviewed By: #_____
_____
_____
Date/Time

App. 13a

Booking Card

TURNER, MICHAEL DALE

Print Date/Time: 08/05/2010 14:29 OCONEE COUNTY DETENTION CENTER
Login ID: spruitt **ORI Number**: SC037023C
[Barcode]

Booking #: 2010-00000537 **Booking Date/Time:** 02/19/2010 23:51
Jacket #: 916 **Inmate #:**
Address: [Home Address Omitted] [Image]

Phone #: [Phone Number Omitted] **DOB:** [Date Of Birth Omitted] **Race:** WHITE (W)
SSN: [Social Security Number Omitted] **Age:** 33 **Sex:** MALE (M)
Hair Color: BRO **Eyes:** BLU **Height:** 5ft 7in **Weight**: 170.0

Prisoner Type: PRETRIAL **Incarceration Reason:** ARREST
Facility: **Pod/Block:** **Cell:** **Bed:**

Contact: BRAMLET, REGINA **Relationship:** SPOUSE **Phone #:**
Notified By: **Date/Time:**

Charge: DUS/DRIVING UNDER SUSPENSION, LICENSE
State: 5499 56-01-0460(A)(1)(a) NOT SUSPENDED FOR DUI – 1ST OFFENSE
Offense/Charge Date: 02/19/2010 23:00 **Warrant Number:** **Court Date/Time:**
Case Tracking ORI: **Case Tracking #:** **Docket Number:**
Bond/Bail Set Type: PR **Bond/Bail Set Date:** 02/20/2010 08:26 **Bond/Bail Set Amt:** $652.50/
Bond Posted By: **Bond Post Date:** 02/20/2010 08:27 **Bond Post Amt:** $652.50
Severest: No

Charge:
State: 5499 56-05-1810 TRAFFIC/DRIVING ON WRONG SIDE OF ROAD
Offense/Charge Date: 02/19/2010 23:00 **Warrant Number:** **Court Date/Time:**
Case Tracking ORI: **Case Tracking #:** **Docket Number:**
Bond/Bail Set Type: PR **Bond/Bail Set Date:** 02/20/2010 08:28 **Bond/Bail Set Amt:** $237.50/
Bond Posted By: **Bond Post Date:** 02/20/2010 08:28 **Bond Post Amt:** $237.50
Severest: No

Charge: TRAFFIC/SEATBELT VIOLATION – NON-
State 5499 56-05-6520 CRIMINAL SEAT BELT VIOLATION
Offense/Charge Date: 02/19/2010 23:00 **Warrant Number:** **Court Date/Time:**
Case Tracking ORI: **Case Tracking #:** **Docket Number:**
Bond/Bail Set Type: PR **Bond/Bail Set Date:** 02/20/2010 08:27 **Bond/Bail Set Amt:** $25.00/
Bond Posted By: **Bond Post Date:** 02/20/2010 08:28 **Bond Post Amt:** $25.00
Severest: No

Charge:			DRUGS/MANUF., POSS. OF OTHER SUB. IN SCH. I, II, III, OR FLUNITRAZEPAM OR ANALOGUE W.I.T.D. – 1ST OFFENSE	
State:	35A	44-53-0370(b)(2)(1)		
Offense/Charge Date:	02/20/2010 08:09		**Warrant Number:**	**Court Date/Time:**
Case Tracking ORI:			**Case Tracking #:**	**Docket Number:**
Bond/Bail Set Type:	PR		**Bond/Bail Set Date:** 02/20/2010 08:27	**Bond/Bail Set Amt:** $5000.00/
Bond Posted By:			**Bond Post Date:** 02/20/2010 08:29	**Bond Post Amt:** $5,000.00
Severest:	No			

Charge:			DRUGS/ATTEMPTED POSSESSION OF A CONTROLLED SUBSTANCE	
State:	35A	44-53-0370(B)		
Offense/Charge Date:	02/20/2010 08:09		**Warrant Number:**	**Court Date/Time:**
Case Tracking ORI:			**Case Tracking #:**	**Docket Number:**
Bond/Bail Set Type:	PR		**Bond/Bail Set Date:** 02/20/2010 09:59	**Bond/Bail Set Amt:** $15000.00/
Bond Posted By:			**Bond Post Date:** 02/20/2010 10:00	**Bond Post Amt:** $15,000.00
Severest:	No			

Charge:			DRUGS/MANUF., DIST., OR POSSESSION W.I.T.D. SCHEDULE IV DRUGS, EXCEPT FLUNITRAZEPAM – 1ST OFFENSE	
State	35A	44-53-0370(b)(3)1		
Offense/Charge Date:	08/24/2009 08:36		**Warrant Number:**	**Court Date/Time:**
Case Tracking ORI:			**Case Tracking #:**	**Docket Number:**
Bond/Bail Set Type:	SURETY		**Bond/Bail Set Date:** 02/20/2010 11:35	**Bond/Bail Set Amt:** $10000.00/
Bond Posted By:			**Bond Post Date:** 02/20/2010 14:00	**Bond Post Amt:** $10,000.00
Severest:	No			

Release Date/Time:	02/21/2010 14:04	**Released By:**	RR4452 – ROHLETTER
Release Reason:	POSTED BOND	**Released to ORI:**	
Release To:			

I will have opportunity to contact family or counsel

Inmate Signature: _____

Booking Officer(s): #_____ #_____

Reviewed By: #_____

_____

_____

Date/Time

POWER AMOUNT
$ 11,000.00

Accredited

www.accredited-inc.com
ACCREDITED SURETY AND CASUALTY COMPANY, INC.
[illegible] ROAD STREET, SUITE 200, ORLANDO, FL 32814
PHONE: 407.629.2131

POWER NO. AB-00482006

FILED-ACCNE-A
BEVERLY H. WHITFIELD
CLERK OF COURT

POWER OF ATTORNEY: KNOW ALL MEN BY THESE PRESENTS, that Accredited Surety and Casualty Company, Inc., a corporation duly organized and existing under the laws of the State of Florida, has made pursuant to a Code of its By-Laws which was adopted by the Directors of the said Company on the 31st day of August, 1971 and is now in effect, does constitute and appoint, and by these presents does make, constitute and appoint below named agent its true and lawful Attorney-in-Fact for it and in its name, place, and stead, to execute, seal and deliver for and on its behalf and as its act and deed, as surety, a bail bond only. Authority of such Attorney-in-Fact is limited to **APPEARANCE BONDS ONLY** and cannot be construed to guarantee payment of fines, costs, alimony, wage claims, or any other financial obligation, nor delivery on behalf of below named defendant. Not valid if used in connection with federal or immigration Bonds.

2010 MAR -2 P 2:48

This Power-of-Attorney is void if altered or erased, void if used with other powers of this company or in combination with powers from any other surety company. This Power-of-Attorney is void if used to furnish bail in excess of the stated face amount of this power, and can only be used once. The obligation of the company shall not exceed the sum of

ELEVEN THOUSAND ($11,000.00) DOLLARS

and is provided this Power-of-Attorney is filed with the bond and retained as a part of the Court records. The said Attorney-in-Fact is hereby authorized to insert in this Power-of-Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, ACCREDITED SURETY AND CASUALTY COMPANY, INC., has caused these presents to be signed by its duly authorized officer; proper for the purpose and its corporate seal to be hereunto affixed this 21st day of February, 20 10

Bond Amount 10,000.00 Appearance Date 3.26.2010 8:30

Defendant Michael Dale Turner

Court Sessions City Westminster State SC

Case # I 569129

Offense Distribution of Heroin

Executing Agent Kurt Shoolbrede

ACCREDITED SURETY AND CASUALTY COMPANY, INC.

VOID IF NOT ISSUED BY: 12/31/2010

ACCREDITED SURETY AND CASUALTY COMPANY, INC. SEAL FLORIDA

Deborah Jallad

DEBORAH JALLAD
PRESIDENT

NOT VALID FOR IMMIGRATION OR FEDERAL BONDS

ASC350 (03/08)

WARNING: THIS FORM CONTAINS A WATERMARK, UV FIBERS AND MICROPRINT SIGNATURE LINE

ARREST WARRANT
J-452853

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of SENECA

THE STATE

against

TURNER, MICHAEL DALE
Address: [Home Address Omitted]

Phone: [Phone Number Omitted]
SSN: [Social Security Number Omitted]
Sex: M Race: W Height: 507 Weight: 170
DL State: SC DL#: [Drivers License Omitted]
DOB: [Date Of Birth Omitted]
Agency ORI #: SC0370100
Prosecuting Agency: CITY
Prosecuting Officer: JOHN CRUM
Offense: DIST. CONTROLLED SUBSTANCE –
Offense Code: 44-53-370
Code/Ordinance Sec. 44-53-370(B)(3)

This warrant is **CERTIFIED FOR SERVICE** in the ☒ County/☒ Municipality of OCONEE/SENECA . The Accused is to be arrested and brought before me to be dealt with according to law.

/s/ [Illegible] **(L.S.)**
Signature of Judge

Date: 12-7-09

RETURN

A copy of this arrest warrant was delivered to defendant Michael Dale Turner on 2-20-10 .

/s/ BJ McClure
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

DANNY SINGLETON
225 E. N. 1ST STREET
Seneca, SC 29678

AFFIDAVIT

(Filed Feb. 26, 2010)

STATE OF SOUTH CAROLINA	)	Form Approved by S.C. Attorney General April 21, 2003 SCCA 618
☐ County/☒ Municipality of SENECA	)	

Personally appeared before me the affiant CRUM, JOHN who being duly sworn deposes and says that defendant TURNER, MICHAEL DALE did within this county and state on 09/23/2009 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/☒ Municipality of SENECA) in the following particulars:

DESCRIPTION OF OFFENSE:
DIST. CONTROLLED SUBSTANCE – 44-53-370(B)(3)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT, MICHAEL DALE TURNER DID KNOWINGLY, INTENTIONALLY AND WITHOUT AUTHORIZATION, DISTRIBUTE A QUANTITY OF [Xanax DS] A SCHEDULE IV CONTROLLED SUBSTANCE. THIS DISTRIBUTION WAS MADE TO AN UNDERCOVER OPERATIVE WORKING AT THE DIRECTION OF THE SENECA POLICE DEPARTMENT. THIS DID OCCUR AT 12020 N. RADIO STATION ROAD WITHIN THE CITY OF SENECA AND THERE IS A WRITTEN REPORT ON FILE WITH THE SENECA POLICE DEPARTMENT, CASE NO. 09001470.

Signature of Affiant /s/ John Crum
Affiant's Address [Home Address Omitted] SENECA, SC 29678
Affiant's Telephone [Phone Number Omitted

STATE OF SOUTH CAROLINA)
)
☐ County/☒ Municipality of SENECA)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 09/23/2009

defendant TURNER, MICHAEL DALE
did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/☒ Municipality of SENECA) as set forth below:

DESCRIPTION OF OFFENSE:
DIST. CONTROLLED SUBSTANCE – 44-53-370(B)(3)

[A TRUE COPY
AUG 31 2010 BW]

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)
on December 2, 2009)
/s/ [Illegible] **(L.S.)**)
Signature of Issuing Judge)
Judge Code: 421)
)

ORIGINAL

Judge's Address 225 E. N. 1ST STREET
SENECA SC 29678
Judge's Telephone 864-885-2731

[Entered
Computer LB]

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

STATE OF SOUTH CAROLINA)
)
COUNTY OF Oconee)
STATE)
VS.)
Mr. Michael Dale Turner)
AKA:)
Race: W Sex: M Age: 33)
DOB: [Date Of Birth Omitted])
SS#: [Social Security Number Omitted])
Address: [Home Address Omitted])
City, State, Zip:)
DL# [Drivers License Omitted]* SID#)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐
Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 10-GS-37-610
A/W#: J452853
Date of Offense: 9/23/2009
S.C. Code §: 44-53-0370(b)(3)
CDR Code #: 0189

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Drugs/Manuf., poss. of Sch. IV drugs, except flunitrazepam, with intent to distribute – 1st offense

In violation of § 44-53-0370(b)(3) of the S.C. Code of Laws, bearing CDR Code # 0189

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

_____ (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

/s/ L.S. Simmons	70224	/s/ Michael Turner
Solicitor	SC Bar #	Defendant
/s/ NGS		5143
Attorney for Defendant		SC Bar #

WHEREFORE, the Defendant is committed to the ☑ **State Department of Corrections** ~~☐ **County Detention Center**~~, for a determinate term of 3 ~~days/months~~/years ~~or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____;~~ provided that upon the service of 3 days [TD] ~~days/months/years~~ and ~~or~~ payment of $ _____; ~~plus~~ costs and assessments as applicable*; the balance is suspended with **probation** for 1 ~~months~~/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☑ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 3 days [TD]

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered PTUP** _____

Total: $ _____ plus 20% fee: _____ $ _____

_____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED ☐

☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

*Fine:		$	
§14-1-206 (Assessments 107.5%)		$	
§14-1-211(A)(1) (Conv. Surcharge)	$100	$	100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$	
§56-5-2995 (DUI Assessment)	$12	$	
§56-1-286 (DUI Breath Test)	$25	$	
§47.12 (Public Def/Prob)	$500	$	
§14-1-212 (Law Enforce, Funding)	$25	$	25.00
§14-1-213 (Drug Court Surcharge)	$150	$	150.00
§50-21-114 (BUI Breath Test Fee)	$50	$	
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$	
§90.7 (SCCJA Surcharge)	$5	$	5.00
3% to County (if paid in installments)		$	8.40
TOTAL		$	288.40

Clerk of Court/Deputy Clerk /s/ Beverly Whitfield

Court Reporter: /s/ Robin Hild

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ Beginning _____

$ _____ Paid to Public Defender Fund

Other: _____

_____

_____

_____

_____

☐ Appointed PD or appointed other counsel, §47.12 requires $500 be paid to Clerk during probation.

Presiding Judge A. Macaulay

Judge Code: 63

Sentence Date 11/18/10

_____

ARREST WARRANT
J-452854

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of SENECA

THE STATE

against

TURNER, MICHAEL DALE
Address: [Home Address Omitted]

Phone: [Phone Number Omitted]
SSN: [Social Security Number Omitted]
Sex: M Race: W Height: 507 Weight: 170
DL State: SC DL#: [Drivers License Omitted]
DOB: [Date Of Birth Omitted]
Agency ORI #: SC0370100
Prosecuting Agency: CITY
Prosecuting Officer: TIM HUNNICUTT
Offense: DIST. CONTROLLED SUBSTANCE –
Offense Code: 44-53-370
Code/Ordinance Sec. 44-53-370(B)(3)

This warrant is **CERTIFIED FOR SERVICE** in the ☒ County/☐ Municipality of OCONEE . The Accused is to be arrested and brought before me to be dealt with according to law.

/s/ [Illegible] **(L.S.)**
Signature of Judge

Date: 12-7-09

RETURN

A copy of this arrest warrant was delivered to defendant Michael Dale Turner on 2-20-10 .

/s/ BJ McClure
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

DANNY SINGLETON
225 E. N. 1ST STREET
Seneca, SC 29678

AFFIDAVIT

(Filed Feb. 26, 2010)

STATE OF SOUTH CAROLINA	)	Form Approved by S.C. Attorney General April 21, 2003 SCCA 618
☐ County/☒ Municipality of SENECA	)	

Personally appeared before me the affiant HUNNICUTT, TIM who being duly sworn deposes and says that defendant TURNER, MICHAEL DALE did within this county and state on 08/24/2009 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/☒ Municipality of SENECA) in the following particulars:

DESCRIPTION OF OFFENSE:
DIST. CONTROLLED SUBSTANCE – 44-53-370(B)(3)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT, MICHAEL DALE TURNER DID KNOWINGLY, INTENTIONALLY AND WITHOUT AUTHORIZATION, DISTRIBUTE A QUANTITY OF [Xanax DS] A SCHEDULE IV CONTROLLED SUBSTANCE. THIS DISTRIBUTION WAS MADE TO AN UNDERCOVER OPERATIVE WORKING AT THE DIRECTION OF THE SENECA POLICE DEPARTMENT. THIS DID OCCUR AT 207 OCONEE SQUARE WITHIN THE CITY OF SENECA AND THERE IS A WRITTEN REPORT ON FILE WITH THE SENECA POLICE DEPARTMENT, CASE NO. 09001296.

Signature of Affiant /s/ Tim Hunnicutt
Affiant's Address [Home Address Omitted] SENECA, SC 29678
Affiant's Telephone [Phone Number Omitted]

STATE OF SOUTH CAROLINA)
)
☐ County/☒ Municipality of SENECA)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 08/24/2009

defendant TURNER, MICHAEL DALE
did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/☒ Municipality of SENECA) as set forth below:

DESCRIPTION OF OFFENSE:
DIST. CONTROLLED SUBSTANCE – 44-53-370(B)(3)

[A TRUE COPY
AUG 31 2010 BW]

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on December 2, 2009

/s/ [Illegible] **(L.S.)**
Signature of Issuing Judge
Judge Code: 421

ORIGINAL

Judge's Address 225 E. N. 1ST STREET
SENECA SC 29678
Judge's Telephone 864-885-2731

[Entered
Computer LB]

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

STATE OF SOUTH CAROLINA)
)
COUNTY OF Oconee)
STATE)
VS.)
Mr. Michael Dale Turner)
AKA:)
Race: W Sex: M Age: 33)
DOB: [Date Of Birth Omitted])
SS#: [Social Security Number Omitted])
Address: [Home Address Omitted])
City, State, Zip:)
DL# [Drivers License Omitted]* SID#)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐
Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 10-GS-37-609
A/W#: J452854
Date of Offense: 8/24/2009
S.C. Code §: 44-53-0370(b)(3)
CDR Code #: 0189

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Drugs/Manuf., poss. of Sch. IV drugs, except flunitrazepam, with intent to distribute – 1st offense

In violation of § 44-53-0370(b)(3) of the S.C. Code of Laws, bearing CDR Code # 0189

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

_____ (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

/s/ L.S. Simmons	70224	/s/ Michael Turner
Solicitor	SC Bar #	Defendant
/s/ NGS		5143
Attorney for Defendant		SC Bar #

WHEREFORE, the Defendant is committed to the ☑ **State Department of Corrections** ~~☐ **County Detention Center**~~, for a determinate term of 3 ~~days/months~~/years ~~or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____~~; provided that upon the service of 3 days/~~months/years~~ and ~~or~~ payment of $ _____~~; plus~~ costs and assessments as applicable*; the balance is suspended with **probation** for 1 ~~months~~/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☑ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 3 days [TD]

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered PTUP** _____

Total: $ _____ plus 20% fee: _____ $ _____

_____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED ☐

☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. ☑

Recipient: _____

*Fine:		$	
§14-1-206 (Assessments 107.5%)		$	
§14-1-211(A)(1) (Conv. Surcharge)	$100	$	100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$	
§56-5-2995 (DUI Assessment)	$12	$	
§56-1-286 (DUI Breath Test)	$25	$	
§47.12 (Public Def/Prob)	$500	$	500.00
§14-1-212 (Law Enforce, Funding)	$25	$	25.00
§14-1-213 (Drug Court Surcharge)	$150	$	150.00
§50-21-114 (BUI Breath Test Fee)	$50	$	
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$	
§90.7 (SCCJA Surcharge)	$5	$	5.00
3% to County (if paid in installments)		$	23.40
TOTAL		$	803.40

Clerk of Court/Deputy Clerk /s/ Beverly Whitfield

Court Reporter: /s/ Robin Hild

May serve W/E beginning _____

Substance Abuse Counseling ☑

Random Drug/Alcohol Testing ☑

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ Beginning _____

$ _____ Paid to Public Defender Fund

Other: _____

_____

_____

_____

_____

☑ Appointed PD or appointed other counsel, §47.12 requires $500 be paid to Clerk during probation.

Presiding Judge A. Macaulay

Judge Code: 63

Sentence Date 11/18/10

[☑ D/L]

_____

N-140076

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of Oconee

THE STATE

against

Michael Dale Turner
Address: [Home Address Omitted]

Phone: [Phone Number Omitted]
SSN: [Social Security Number Omitted]
Sex: M Race: W Height: ____ Weight: ____
DL State: SC DL#: [Drivers License Omitted]
DOB: [Date Of Birth Omitted]
Agency ORI #: SCSHP0000
Prosecuting Agency: S C Highway Patrol
Prosecuting Officer: J A Hamilton – 2101
Offense: Drugs/Manuf., poss. of other sub. in Sch. I,II,III or flunitrazepam or analogue, w.i.t.d. – 1st offense
Offense Code: 0186
Code/Ordinance Sec: 44-53-370(b)(2)

This warrant is **CERTIFIED FOR SERVICE** in the ☐ County/☐ Municipality of _____ . The accused is to be arrested and brought before me to be dealt with according to law.

_____ **(L.S.)**
Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant Michael Dale Turner
on 02-20-10

/s/ [Illegible]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Bond Court
300 South Church St.
Walhalla, SC 29691

AFFIDAVIT

(Filed Feb. 24, 2010)

☒ County/☐ Municipality of Oconee) **ORIGINAL**
) S.C. Attorney General
) April 21, 2003
) SCCA 518

Personally appeared before me the affiant
J A Hamilton who
being duly sworn deposes and says that defendant
Michael Dale Turner
did within this county and state on or about 02/19/2010 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/☐ Municipality of Oconee) in the following particulars:

DESCRIPTION OF OFFENSE
Drugs/Manuf., poss. of other sub. in Sch. I,II,III or flunitrazepam or analogue, w.i.t.d. – 1st offense

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID, ON 02-19-10, KNOWINGLY, INTENTIONALLY AND WITHOUT THE AUTHORITY TO DO SO, POSSESS A QUANTITY OF LORTAB (HYDROCONE), A SCHEDULE III CONTROLLED SUBSTANCE. THIS INCIDENT OCCURRED AT COFFEE ROAD, WALHALLA, SC IN OCONEE COUNTY AND WAS INVESTIGATED BY SOUTH CAROLINA HIGHWAY PATROL, L/CPL M.B. LUSK.

Signature of Affiant /s/ [Illegible]
Affiant's Address [Home Address Omitted]
Greenville 29607-
Affiant's Telephone [Phone Number Omitted]

STATE OF SOUTH CAROLINA)
)
☒ County/☐ Municipality of Oconee)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/19/2010 defendant Michael Dale Turner did violate the criminal laws of the State of South

Carolina (or ordinance of ☒ County/☐ Municipality of Oconee) as set forth below:

DESCRIPTION OF OFFENSE:
Drugs/Manuf., poss. of other sub. in Sch. I,II,III or flunitrazepam or analogue, w.i.t.d. – 1st offense

[A TRUE COPY
AUG 31 2010 BW]

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)
on 02/20/2010)
/s/ [Illegible] **(L.S.)**)
Signature of Issuing Judge)
Blake A. Norton)
Judge Code: 5033)

ORIGINAL

Judge's Address 208 Booker Drive
Walhalla, SC 29691-2278
Judge's Telephone (864)638-4125

[Entered
Computer LB]

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

STATE OF SOUTH CAROLINA)
)
COUNTY OF Oconee)
STATE)
VS.)
Mr. Michael Dale Turner)
AKA:)
Race: W Sex: M Age: 33)
DOB: [Date Of Birth Omitted])
SS#: [Social Security Number Omitted])
Address: [Home Address Omitted])
City, State, Zip:)
DL# [Drivers License Omitted]* SID#)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐
Hazmat Yes ☐ No ☐

3 on 1 prob

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 10-GS-37-608
A/W#: N140076
Date of Offense: 2/19/2010
S.C. Code §: 44-53-0370(b)(2)
CDR Code #: ~~0186~~ 0179

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Drugs/~~Manuf.,~~ [LSS] poss. of other sub. in Sch. I,II,III or flunitrazepam or analogue, ~~w.i.t.d.~~ [LSS] – 1st offense

In violation of § 44-53-0370~~(b)(2)~~ [LSS] of the S.C. Code of Laws, bearing CDR Code # ~~0186~~ [LSS] 0179

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

_____ (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

/s/ LS Simmons	70224	/s/ Michael Turner
Solicitor	SC Bar #	Defendant
/s/ NGS		5143
Attorney for Defendant		SC Bar #

WHEREFORE, the Defendant is committed to the ☑ **State Department of Corrections** ~~☐ **County Detention Center**~~, for a determinate term of 6 ~~days~~/months/~~years or~~ ~~☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of~~ [provided upon services of 3 days TS] ~~days/months/years and or payment of $ _____~~; plus costs and assessments as applicable*~~; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.~~ [Illegible].

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☑ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. ~~lewd [TD]~~ 3 days T/S

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered PTUP** _____

Total: $ _____ plus 20% fee: _____ $ _____

_____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED ☐

☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

*Fine:		$	
§14-1-206 (Assessments 107.5%)		$	
§14-1-211(A)(1) (Conv. Surcharge)	$100	$	100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$	
§56-5-2995 (DUI Assessment)	$12	$	
§56-1-286 (DUI Breath Test)	$25	$	
§47.12 (Public Def/Prob)	$500	$	
§14-1-212 (Law Enforce, Funding)	$25	$	25.00
§14-1-213 (Drug Court Surcharge)	$150	$	150.00
§50-21-114 (BUI Breath Test Fee)	$50	$	
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$	
§90.7 (SCCJA Surcharge)	$5	$	5.00
3% to County (if paid in installments)		$	8.40
TOTAL		$	288.40

Clerk of Court/Deputy Clerk /s/ Beverly Whitfield
Court Reporter: /s/ Robin Hild

May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ Beginning _____
$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §47.12 requires $500 be paid to Clerk during probation.

Presiding Judge A. Macaulay
Judge Code: 63
Sentence Date 11/18/10

[☑ D/L]

STATE OF SOUTH CAROLINA COUNTY OF OCONEE	IN THE COURT OF GENERAL SESSIONS INDICTMENTS NOS: 2010-GS-37-608 2010-GS-37-609 2010-GS-37-610
STATE OF SOUTH CAROLINA PLAINTIFF, – VS – MICHAEL DALE TURNER, DEFENDANT.	TRANSCRIPT OF RECORD GUILTY PLEA/ SENTENCE NOVEMBER 18, 2010 WALHALLA, SOUTH CAROLINA

BEFORE:

THE HONORABLE ALEXANDER S. MACAULAY, JUDGE.

APPEARANCES:

LINDSEY S. SIMMONS, ESQ.
ASSISTANT 10TH CIRCUIT SOLICITOR
ATTORNEY FOR THE STATE

N. GRUBER SIRES, ESQ.
ATTORNEY FOR THE DEFENDANT

ROBIN SUE HILD, FCRR, RPR
CIRCUIT COURT REPORTER
POST OFFICE BOX 9
WALHALLA, SC 29691

[2] INDEX

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
NO EXHIBITS WERE INTRODUCED.			

[3] ** START OF REQUESTED CERTIFIED TRANSCRIPT OF RECORD **

(WHEREUPON, THE GUILTY PLEA HEARING COMMENCED WITH ALL PARTIES BEING PRESENT AT APPROXIMATELY 4:21 P.M.)

MS. SIMMONS: MICHAEL DALE TURNER.

THE COURT: ALL RIGHT. CALL YOUR NEXT CASE, SOLICITOR.

MS. SIMMONS: THIS IS 2010-GS-37-608, '609 AND '610, *THE STATE VERSUS MICHAEL DALE TURNER*. HE IS PLEADING TO POSSESSION OF A CONTROLLED SUBSTANCE, DISTRIBUTION OF A CONTROLLED SUBSTANCE – POSSESSION AND TWO COUNTS OF DISTRIBUTION. WE WERE RECOMMENDING THREE

YEARS SUSPENDED ON ONE YEAR PROBATION. HE HAS NO PRIOR DRUG RECORD.

MR. SIRES: HE HAS BEEN IN REHAB, YOUR HONOR, AS YOU WILL NOTE.

THE COURT: YES.

ARE YOU MICHAEL DALE TURNER?

THE DEFENDANT YES, SIR.

(WHEREUPON, THE DEFENDANT WAS SWORN BY THE COURT.)

THE COURT: WHAT'S THE MAXIMUM SENTENCE, MADAM SOLICITOR, ON POSSESSION OF LORTAB?

MS. SIMMONS: JUDGE, THAT'S SIX MONTHS AND $1,000.

THE COURT: AND POSSESSION WITH INTENT TO DISTRIBUTE DISTRIBUTE XANAX?

[4] MS. SIMMONS: SORRY, JUDGE. IT'S THREE YEARS AND $3,000.

THE COURT: THREE YEARS AND $3,000? YOU'VE GOT TWO INDICTMENTS TO THAT?

MS. SIMMONS: YES, SIR.

THE COURT: HOW OLD ARE YOU, SIR?

THE DEFENDANT: THIRTY-THREE.

THE COURT: HOW FAR HAVE YOU GONE IN SCHOOL?

THE DEFENDANT: NINTH GRADE.

THE COURT: WHAT KIND OF WORK DO YOU DO?

THE DEFENDANT: I RUN A CAR LOT.

THE COURT: ARE YOU MARRIED?

THE DEFENDANT: NO, SIR.

THE COURT: DO YOU HAVE ANY CHILDREN UNDER EIGHTEEN?

THE DEFENDANT: YES, SIR.

THE COURT: HOW MANY?

THE DEFENDANT: FOUR GIRLS.

THE COURT: AND HOW OLD ARE THEY?

THE DEFENDANT: FOURTEEN, THIRTEEN, TWELVE AND TEN.

THE COURT: WHO DO THEY LIVE WITH?

THE DEFENDANT: WITH MY EX-MOTHER-IN-LAW.

THE COURT: DO YOU CONTRIBUTE TOWARD YOUR DAUGHTERS' SUPPORT?

THE DEFENDANT: YES.

THE COURT: DO YOU DO IT VOLUNTARILY OR THROUGH [5] COURT ORDER?

THE DEFENDANT: THROUGH COURT.

THE COURT: ARE YOU UNDER THE INFLUENCE OF ANY MEDICATION, DRUGS, OR ALCOHOL AT THIS TIME?

THE DEFENDANT: NO, SIR.

THE COURT: ARE YOU AWARE OF ANY PHYSICAL, MENTAL OR EMOTIONAL PROBLEM THAT MIGHT KEEP YOU FROM UNDERSTANDING WHAT YOU ARE DOING TODAY?

THE DEFENDANT: NO, SIR.

THE COURT: YOU DO UNDERSTAND THE MAXIMUM SENTENCE FOR POSSESSION OF LORTAB IS SIX MONTHS AND A THOUSAND DOLLARS, AND POSSESSION WITH INTENT TO DISTRIBUTE XANAX IS THREE YEARS AND $3,000? SO IF I SHOULD SENTENCE YOU CONSECUTIVELY, YOU COULD BE SENTENCED TO SIX YEARS, SIX MONTHS, AND $7,000?

THE DEFENDANT: YES, SIR.

THE COURT: ALSO, THESE ARE GRADUATED OFFENSES. IN OTHER WORDS, IF YOU ARE CONVICTED OF THE SAME OR SIMILAR CRIME IN THE FUTURE, YOUR PUNISHMENT NEXT TIME WILL BE GREATER BECAUSE YOU WILL HAVE PRIOR OFFENSES?

THE DEFENDANT: YES, SIR.

THE COURT: AND IT WILL AFFECT YOUR ABILITY TO GET A DRIVER'S LICENSE IN SOUTH CAROLINA. DO YOU UNDERSTAND THAT?

THE DEFENDANT: YES, SIR.

[6] THE COURT: HAVE YOU FULLY DISCUSSED ALL ASPECTS OF YOUR CASE WITH YOUR LAWYER?

THE DEFENDANT: YES, SIR.

THE COURT: DO YOU NEED ANY MORE TIME TO TALK TO YOUR LAWYER?

THE DEFENDANT: NO, SIR.

THE COURT: ARE YOU COMPLETELY SATISFIED WITH MR. SIRES' SERVICES AS YOUR ATTORNEY?

THE DEFENDANT: YES, SIR.

THE COURT: YOU DO UNDERSTAND THAT WHEN YOU PLEAD GUILTY YOU GIVE UP YOUR CONSTITUTIONAL RIGHTS?

FIRST, YOU GIVE UP YOUR RIGHT TO REMAIN SILENT, THAT IS THE RIGHT TO SAY NOTHING AT ALL. YOU CANNOT BE COMPELLED TO TESTIFY AGAINST YOURSELF OR OFFER EVIDENCE AGAINST YOURSELF. DO YOU UNDERSTAND THIS?

THE DEFENDANT: YES, SIR.

THE COURT: SECOND, YOU GIVE UP YOUR RIGHT TO A JURY TRIAL WHERE YOU WOULD BE PRESUMED TO BE INNOCENT AND ALL 12 MEMBERS OF THE JURY WOULD HAVE TO BE CONVINCED OF YOUR GUILT BEYOND A REASONABLE DOUBT BEFORE YOU COULD BE FOUND GUILTY. DO YOU UNDERSTAND THAT?

THE DEFENDANT: YES, SIR.

THE COURT: THIRD, YOU GIVE UP YOUR RIGHT TO CONFRONT, THAT IS, THE RIGHT TO SEE, HEAR AND CROSS-EXAMINE ANY WITNESSES CALLED AGAINST YOU AS WELL AS [7] YOUR RIGHT TO CALL AND PRESENT WITNESSES ON YOUR OWN BEHALF. DO YOU UNDERSTAND THAT?

THE DEFENDANT: YES, SIR.

THE COURT: DO YOU UNDERSTAND THAT WHEN YOU PLEAD GUILTY, YOU WAIVE OR GIVE UP THESE CONSTITUTIONAL RIGHTS?

THE DEFENDANT: YES, SIR.

THE COURT: DO YOU UNDERSTAND WHEN YOU PLEAD GUILTY, YOU ADMIT THE TRUTH OF THE CHARGES MADE AGAINST YOU?

THE DEFENDANT: YES, SIR.

THE COURT: UNDERSTANDING, THEN, THE NATURE OF THE OFFENSES AND THE CONSEQUENCES OF A GUILTY PLEA, HOW DO

YOU WISH TO PLEAD TO EACH OF THESE CHARGES?

THE DEFENDANT: GUILTY.

THE COURT: HAS ANYONE PROMISED YOU ANYTHING OR THREATENED YOU TO GET YOU TO PLEAD GUILTY TO THESE CHARGES?

THE DEFENDANT: NO, SIR.

THE COURT: ARE YOU, IN FACT, GUILTY?

THE DEFENDANT: YES, SIR.

THE COURT: DO YOU WANT TO TELL ME WHAT YOU DID?

THE DEFENDANT: ON THE LORTABS, I HAD A BOTTLE WITHOUT THE LABEL ON IT WHEN I WAS PULLED OVER; AND THE XANAX, I WAS TRYING TO SELL THEM TO MAKE EXTRA MONEY. I KNOW IT WAS WRONG. SORRY.

THE COURT: YOU DID THE XANAX ON TWO OCCASIONS?

[8] THE DEFENDANT: YES, SIR.

THE COURT: DO YOU UNDERSTAND WHAT YOU DID WAS WRONG?

THE DEFENDANT: YES, SIR.

THE COURT: DO YOU BELIEVE YOU WOULD BE CONVICTED IF YOU STOOD TRIAL?

THE DEFENDANT: YES, SIR.

THE COURT: ALL RIGHT, MADAM SOLICITOR, WHAT ARE THE FACTS OF THE CASE AS YOU HAVE THEM?

STATEMENT OF FACTS BY SOLICITOR:

MS. SIMMONS: ON FEBRUARY 19TH, 2010, HERE IN OCONEE COUNTY MR. TURNER DID POSSESS A QUANTITY OF LORTAB UNLAWFULLY. THEN ON AUGUST 24TH, 2009 AND SEPTEMBER 23RD OF 2009, IN OCONEE COUNTY, DISTRIBUTED XANAX TO AN UNDERCOVER OPERATIVE WORKING FOR THE SENECA POLICE DEPARTMENT.

THE COURT: DO YOU AGREE WITH THE FACTS AS STATED BY THE SOLICITOR?

THE DEFENDANT: YES, SIR.

THE COURT: PRIOR RECORD?

MS. SIMMONS: C.D.V., SIMPLE ASSAULT, AND UNDERAGE DRINKING.

THE COURT: DOES THAT ALSO SOUND ABOUT RIGHT?

THE DEFENDANT: YES, SIR.

THE COURT: ALL RIGHT. HAS EACH AND EVERY ANSWER [9] YOU HAVE GIVEN THE COURT TODAY BEEN ABSOLUTELY TRUTHFUL?

THE DEFENDANT: YES, SIR.

THE COURT: ALL RIGHT. I FIND THERE IS A SUBSTANTIAL FACTUAL BASIS FOR THE DEFENDANT'S PLEA TO EACH OF THESE INDICTMENTS, AND THE DEFENDANT'S GUILTY PLEA IS FREELY, VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY MADE, WITH THE ADVICE AND COUNSEL OF AN ATTORNEY WITH WHOM THE DEFENDANT SAYS HE IS SATISFIED. THE DEFENDANT'S PLEAS OF GUILTY TO EACH INDICTMENT ARE ACCEPTED.

ALL RIGHT. ANYTHING FURTHER FROM THE STATE?

MS. SIMMONS: NOTHING, YOUR HONOR.

THE COURT: LET ME ASK YOU. NOW, ON POSSESSION OF LORTAB, IS THAT SIX MONTHS OR THREE YEARS?

MS. SIMMONS: I JUST CHARGED HIM UNDER THE SIX-MONTH STATUTE.

THE COURT: SIX MONTHS, ALL RIGHT.

MS. SIMMONS: IF YOU WANTED TO DO TIME SERVED ON THAT ONE, WE WOULDN'T OBJECT TO THAT.

THE COURT: ALL RIGHT. MR. SIRES, WHAT DO YOU HAVE TO SAY ON BEHALF OF MR. TURNER?

MR. SIRES: YOUR HONOR, THIS WAS THE TWO-BY-FOUR THAT GOT THE MULE'S

ATTENTION, I THINK. AS A RESULT OF THESE ARRESTS MR. TURNER WENT TO OWL'S NEST RECOVERY COMMUNITY DOWN IN FLORENCE, SOUTH CAROLINA, AND WAS DOWN THERE OVER TWO MONTHS AND COMPLETED THE PROGRAM. SINCE [10] THAT TIME I IMAGINE HE'S BEEN CLEAN – HAS HE NOT?

THE DEFENDANT: YES, SIR.

MR. SIRES: AND HE HAD A STRANGE REQUEST, YOUR HONOR. HE ASKED THAT THE COURT ORDER HIM TO GO TO VOC REHAB. HE WANTS TO GET A JOB, HE'S OUT OF A JOB RIGHT NOW, AND HE THINKS THAT VOC REHAB WILL HELP HIM WITH THIS DURING HIS PROBATIONARY PERIOD.

THE DEFENDANT: YES, SIR.

MR. SIRES: HE'S PAYING CHILD SUPPORT FOR FOUR YOUNG GIRLS. HE BUILT TIME DOWN THERE FOR THAT IN ANDERSON COUNTY, I BELIEVE.

THE DEFENDANT: THAT HURT.

MR. SIRES: SO HE WANTS TO GET CAUGHT UP ON THAT AND GET ON WITH HIS LIFE. HE'S BEEN CLEAN AND HE INTENDS TO STAY CLEAN –

THE DEFENDANT: YES, SIR.

MR. SIRES: – STAY AWAY FROM THIS STUFF.

IS THERE ANYTHING ELSE THAT YOU WOULD LIKE TO TELL THE COURT, MR. TURNER? THEY ARE RECOMMENDING A SENTENCE OF PROBATION FOR ONE YEAR.

THE DEFENDANT: NO, SIR.

THE COURT: ALL RIGHT. THE RECOMMENDATION IS THREE YEARS, SUSPENDED UPON ONE YEAR PROBATION?

MS. SIMMONS: YES, YOUR HONOR.

[11] THE COURT: MR. TURNER, ANYTHING YOU WOULD LIKE TO SAY?

THE DEFENDANT: JUST I'M SORRY. I'M TRYING TO CLEAN UP MY ACT, TRYING TO DO BETTER. IT WILL NOT HAPPEN AGAIN. IT BETTER NOT HAPPEN AGAIN.

THE COURT: HOW MUCH TIME HAVE YOU SERVED?

MR. SIRES: THREE OR FOUR DAYS HE TELLS ME NOW.

THE DEFENDANT: JUST A THURSDAY TO A SUNDAY.

MR. SIRES: THURSDAY TO SUNDAY? THURSDAY, FRIDAY, SATURDAY AND SUNDAY. FOUR DAYS.

THE COURT: ANYTHING FURTHER FROM THE STATE?

MS. SIMMONS: NO, YOUR HONOR.

THE COURT: ANYTHING ELSE, MR. TURNER?

THE DEFENDANT: NO, SIR.

SENTENCE OF THE COURT:

THE COURT: INDICTMENT NUMBER 2010-GS-37-608, THE SENTENCE OF THE COURT IS THAT THE DEFENDANT BE COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF SIX MONTHS, PROVIDED UPON THE SERVICE OF THREE DAYS' TIME SERVED AND PAYMENTS OF THE COSTS AND ASSESSMENTS AS APPLICABLE, THE BALANCE IS SUSPENDED.

INDICTMENT NUMBER 2010-GS-37-610, THE SENTENCE OF THE COURT IS THE DEFENDANT BE COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF THREE YEARS, PROVIDED UPON THE SERVICE OF THREE DAYS' TIME SERVED PLUS [12] THE PAYMENT OF COSTS AND ASSESSMENTS AS APPLICABLE. THE BALANCE IS SUSPENDED, PROBATION FOR ONE YEAR.

INDICTMENT NUMBER 2010-GS-37-609, THE SENTENCE OF THE COURT IS THE DEFENDANT BE COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF THREE YEARS, PROVIDED UPON THE SERVICE OF THREE DAYS' TIME SERVED PLUS PAYMENT OF

COSTS AND ASSESSMENTS AS APPLICABLE. THE BALANCE IS SUSPENDED. PROBATION FOR ONE YEAR.

ALL SENTENCES TO RUN CONCURRENT, DEFENDANT BE GIVEN CREDIT FOR THREE DAYS TIME SERVED, SPECIAL CONDITIONS OF SENTENCE IS TO ATTEND VOCATIONAL REHABILITATION, JOB CORPS, UNDERGO DRUG AND ALCOHOL TESTING AND TREATMENT AND SUBSTANCE ABUSE COUNSELING AS DIRECTED, AND PAY $500 TO THE CLERK DURING PROBATION.

MR. SIRES: THANK YOU, YOUR HONOR.

THE DEFENDANT: THANK YOU, YOUR HONOR.

THE COURT: GOOD LUCK TO YOU, SIR.

(WHEREUPON, THE GUILTY PLEA/SENTENCE WAS CONCLUDED AT APPROXIMATELY 4:38 P.M.)

** END OF REQUESTED CERTIFIED TRANSCRIPT OF RECORD **

[13] CERTIFICATE OF COURT REPORTER

I, THE UNDERSIGNED, ROBIN SUE HILD, FCRR, RPR, OFFICIAL COURT REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND THE EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR OCONEE COUNTY, SOUTH CAROLINA, ON THE 18TH DAY OF NOVEMBER, 2010.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

DECEMBER 2, 2010

/s/ Robin Sue Hild
ROBIN SUE HILD, FCRR, RPR
CIRCUIT COURT REPORTER

LIST OF TENTH CIRCUIT FAMILY COURT CHILD-SUPPORT ENFORCEMENT CASES REVIEWED

In response to amicus Patterson's empirical study (Patterson et al. Br. 6-22; Ctr. for Fam. Pol'y & Practice et al. [certiorari-stage] Br. 16-19), on January 4, 2011, undersigned counsel sent a researcher to observe the family court proceedings in the Tenth Judicial Circuit, comprising Oconee and Anderson Counties, South Carolina. Every child-support civil-contempt hearing before Judges Tommy B. Edwards and Timothy M. Cain in Anderson, South Carolina was observed and data were recorded. Those cases are listed below.

Records were then reviewed in the Oconee County Courthouse. The research began with Department of Social Services (DSS) docket sheets that included but were not limited to all child-support civil-contempt hearings scheduled to be heard on the one day specifically reserved for child-support enforcement hearings each month in Oconee County between April and November 2010. Not all the hearings occurred as scheduled. Review of these case files and dockets indicated that 130 of them involved a child-support civil-contempt hearing, with a total of 144 separate hearings. (Some cases had multiple hearings, and some hearings occurred before or after the dates and months initially studied.) Those cases are listed below by hearing date. There were other pertinent cases during that time period that could not be reviewed: for example, some case files were sealed or missing.

I. HEARINGS OBSERVED

A. Hearings Before Judge Edwards

1. *Bridges* v. *Delmaro* (2007-DR-04-02366)
2. *Bumgarner* v. *Claud* (2007-DR-04-02376)
3. *Cummings* v. *Bannister* (1998-DR-04-00153)
4. *Ervin* v. *Farr* (2002-DR-04-0218)
5. *Frady* v. *Duncan* (2009-DR-04-00811)
6. *Hunt* v. *Hoover* (2010-DR-04-00328)
7. *Jones* v. *McHanney* (2010-DR-04-0023)
8. *Ledford* v. *Ledford* (2007-DR-04-01370)
9. *Lee* v. *Moon* (2010-DR-04-02628)
10. *Marcengill* v. *Marcengill* (1997-DR-04-02934)
11. *Nix* v. *Thrasher* (2002-DR-04-911)
12. *Oglesby* v. *Jones* (2007-DR-04-02486)
13. *Pressley* v. *Jones* (1993-DR-04-2243)
14. *Roberts* v. *Roberts* (2001-DR-04-00268)
15. *Scott* v. *Cowan* (2009-DR-04-00068)
16. *Seawright* v. *Thrasher* (2002-DR-04-911)
17. *Stewart* v. *Stewart* (2010-DR-04-00123)
18. *Trotter* v. *Miller* (1999-DR-04-00263)
19. *Turman* v. *Johnson* (2007-DR-04-00068)
20. *Walton* v. *Willis* (2008-DR-04-00594)
21. *Young* v. *Carver* (2007-DR-04-1760)
22. *Young* v. *Holden* (1998-DR-04-1660)

B. **Hearings Before Judge Cain**

1. *Agraddick* v. *Williams* (2000-DR-04-00658)

2. *Alexander* v. *Holcomb* (2009-DR-04-02070)

3. *Bagwell* v. *Bagwell* (2009-DR-04-02657)

4. *Barnard* v. *Barnard* (2009-DR-04-00450)

5. *Bishop* v. *Burdick* (2005-DR-04-1272)

6. *Brown* v. *Fielding* (2008-DR-04-00788A)

7. *Brown* v. *Parnell* (2004-DR-04-1200)

8. *Burkett* v. *Burkett* (2004-DR-04-003798)

9. *Cartee* v. *Cartee* (2007-DR-04-02744)

10. *Cheek* v. *Cheek* (2006-DR-04-00056)

11. *Cox* v. *McAlister* (2010-DR-04-01491)

12. *Currens* v. *Gibbons* (2010-DR-04-00097)

13. *Dotson* v. *Anderson* (1995-DR-04-02003)

14. *Duncan* v. *Duncan* (2010-DR-04-1950)

15. *Edmonson* v. *Edmonson* (2003-DR-04-02358)

16. *Edwards* v. *Edwards* (2006-DR-04-1026)

17. *Eggenberg* v. *Eggenberg* (2010-DR-04-01072)

18. *Fielding* v. *Fielding* (2008-DR-04-00728)

19. *Fountain* v. *Fountain* (2008-DR-04-00223A)

20. *George* v. *Norwood* (2005-DR-04-00814)

21. *Haulbrook* v. *Haulbrook* (2006-DR-04-2482)

22. *Hembree* v. *Hembree* (2004-DR-04-2130)

23. *Hendricks* v. *Hedricks* (2008-DR-04-02107)

24. *Hunter* v. *Love* (2007-DR-04-022532)

25. *Jeffodat* v. *Dickson* (2000-DR-04-1947)

26. *Jordan* v. *Hix* (1998-DR-04-00111)

27. *Josey* v. *Josey* (2008-DR-04-02759)

28. *Lambert* v. *Cuyar* (2004-DR-04-00516)

29. *Lewis* v. *Lewis* (2010-DR-04-00589)

30. *Lo* v. *Hayes* (2010-DR-0401790)

31. *Marcengill* v. *Marcengill* (2005-DR-04-00186)

32. *Mason* v. *Creamer* (2005-DR-04-02468)

33. *McNeill* v. *McNeill* (2008-DR-04-00732)

34. *Nelson* v. *Plunk* (2002-DR-04-02579)

35. *Obanks* v. *Neal* (2007-DR-04-00598)

36. *Parker* v. *Jackson* (2009-DR-04-00623)

37. *Patterson* v. *Patterson* (2007-DR-04-00195)

38. *Pettigrew* v. *Pettigrew* (2002-DR-04-16068)

39. *Ridgeway* v. *Powell* (2010-DR-04-02265)

40. *Ripley* v. *Ripley* (2004-DR-04-00542A)

41. *Ripley* v. Carter (2004-DR-04-00542B)

42. *Schweitzer* v. *Parker* (2001-DR-04-01672)

43. *Teague* v. *Oakley* (2005-DR-04-00018)

44. *Thompson* v. *Taylor* (2008-DR-04-1493)

45. *Todd* v. *Mclean* (2007-DR-04-02514)

46. *Tucker* v. *Hicks* (2002-DR-04-02815)

47. *Turner* v. *Simmons* (2010-DR-04-00865)

48. *Williams* v. *Powell* (2006-DR-04-01765)

49. *Wood* v. *Benoir* (2007-DR-04-2215)

II. CASE FILES REVIEWED (organized by hearing date)

DECEMBER 15, 2010

1. *Bentley* v. *Cobb* (2001-DR-37-636)
2. *Brown* v. *Clay* (2008-DR-37-227)
3. *Curry* v. *Jenkins* (2003-DR-37-985)
4. *Davis* v. *Quick* (2009-DR-37-0183)
5. *Lee* v. *Jenkins* (2007-DR-37-268)
6. *Mitchell/DSS* v. *Smith* (2009-DR-37-0780)
7. *Morton* v. *Smith* (1999-DR-37-139)
8. *Thompson/DSS* v. *Hamby* (2007-DR-37-744)
9. *Vesey/DSS* v. *Jenkins* (2009-DR-37-337)

DECEMBER 08, 2010

1. *Schwery* v. *Rogers* (2001-DR-37-0227)

NOVEMBER 23, 2010

1. *Young* v. *Simpson* (2008-DR-37-33)

NOVEMBER 17, 2010

1. *Cook* v. *Holmes* (2007-DR-37-0877)
2. *Crawford* v. *Manley* (2009-DR-37-710)
3. *DSS* v. *Watkins* (2007-DR-37-805)
4. *Finney* v. *Harris* (2004-DR-37-181)
5. *Gibbs* v. *Harris* (2002-DR-37-297)
6. *Greenlee* v. *Greenlee* (2006-DR-37-0062)

7. *Johnson* v. *Ferguson* (2000-DR-37-0428)
8. *Jones* v. *Hunter* (2004-DR-37-221)
9. *Lecroy* v. *Owens* (2010-DR-37-573)
10. *Lyda* v. *Lyda* (2004-DR-37-042)
11. *Mitchell/DSS* v. *Smith* (2003-DR-37-602)
12. *Moyles* v. *Moyles* (2001-DR-37-0767)
13. *Norton* v. *Norton* (2009-DR-37-360)
14. *Perry* v. *Perry* (2004-DR-37-684)
15. *Swaney* v. *Chapman* (2005-DR-37-449)
16. *Weeden* v. *McGuffin* (2006-DR-37-0428)

NOVEMBER 08, 2010

1. *Anders* v. *Busch* (2010-DR-37-705)
2. *Smith* v. *Cantrell* (2010-DR-37-228)

OCTOBER 27, 2010

1. *Alexander* v. *Stancil* (2003-DR-37-367)
2. *Blackwell* v. *Crumpton* (2007-DR-37-0644)
3. *Blasingame* v. *Jimenez* (2009-DR-37-0629)
4. *Bort* v. *Bort* (1992-DR-37-0781)
5. *Bradley* v. *Blassingame* (2009-DR-37-080)
6. *Brinkley* v. *Trotter* (2010-DR-37-140)
7. *Clegg* v. *Carnell* (1998-DR-37-0228)
8. *Dickard* v. *Bentley* (2006-DR-37-0744)
9. *DSS* v. *Elrod* (2004-DR-37-65)
10. *Ellis* v. *Ellis* (2010-DR-37-493)
11. *Fowler* v. *Dobson* (2005-DR-37-0778)
12. *Harbert* v. *Allred* (2009-DR-37-715)

13. *Key* v. *Brown* (2009-DR-37-0295)

14. *Keyes* v. *Carnell* (1998-DR-37-0639)

15. *McGuire* v. *Holbrooks* (2001-DR-37-0804)

16. *Miles* v. *Goodine* (1999-DR-37-0861)

17. *Moyles* v. *Moyles* (2001-DR-37-0525)

18. *Peeler* v. *Earle* (2010-DR-37-501)

19. *Roach* v. *Norton* (2009-DR-37-0133)

20. *Sanford* v. *Evans* (2009-DR-37-822)

21. *Smith* v. *Massey* (2009-DR-37-0133)

22. *Streater* v. *Blassingame* (2009-DR-37-080)

23. *Tyler* v. *Cox* (2009-DR-37-659)

24 *Vereb* v. *Armstrong* (2007-DR-37-454)

25. *Walker* v. *Cannon* (1995-DR-37-0937)

26. *Weeden* v. *Roach* (2006-DR-37-838)

27. *Wilson* v. *Davis* (2010-DR-37-434)

OCTOBER 06, 2010

1. *Atkinson* v. *Burdette* (2007-DR-37-0330)

2. *Daugherty* v. *Pearson* (2008-DR-37-0467)

3. *Jackson* v. *Chrisley* (2009-DR-37-521)

4. *Moore* v. *Hart* (2004-DR-37-136)

5. *Roller* v. *Hart* (2008-DR-37-43)

SEPTEMBER 28, 2010

1. *Serano* v. *Smith* (2000-DR-37-352)

SEPTEMBER 15, 2010

1. *Gosnell* v. *Gosnell* (2006-DR-37-492)

2. *Partin* v. *Harbin* (2005-DR-37-0530)

3. *Patterson* v. *Cowart* (2006-DR-37-529)

SEPTEMBER 08, 2010

1. *Perry* v. *Anderson* (2006-DR-37-217)

AUGUST 25, 2010

1. *Breazeale* v. *Breazeal*e (2004-DR-37-771)

2. *Burrell* v. *Patterson* (2006-DR-37-818)

3. *Chappell v. Mayes* (2009-DR-37-377)

4. *DSS* v. *Hamby* (2010-DR-37-701)

5. *Goodine* v. *Miller* (2001-DR-37-609)

6. *Hamby* v. *Goodman* (2009-DR-37-225)

7. *Lawrence* v. *Wood* (2006-DR-37-315)

8. *Rickmon* v. *Haymond* (2004-DR-37-461)

9. *Schwary* v. *Rogers* (2001-DR-37-0227)

10. *Smith* v. *Green* (2007-DR-37-0817)

11. *Thompson* v. *Suttles* (2006-DR-37-823)

AUGUST 18, 2010

1. *Hyde* v. *Hyde* (2002-DR-37-550)

JULY 23, 2010

1. *Streater* v. *Blassingame*
(2010-DR-37-0132)

JULY 15, 2010

1. *Bagwell* v. *Byrd*
(2008-DR-37-0401)

2. *Gilstrap* v. *Carver*
(2002-DR-37-524)

3. *Hamby* v. *Goodman*
(2009-DR-37-225)

4. *Perry* v. *Perry*
(2004-DR-37-684)

JULY 07, 2010

1. *Blassingame* v. *Jimenez*
(2009-DR-37-0629)

JUNE 23, 2010

1. *Addis* v. *Halbrooks*
(2008-DR-37-192)

2. *Fricks* v. *Montjoy*
(1990-DR-37-0526)

3. *Hambey* v. *Foskey*
(2009-DR-37-00224)

4. *Godsmith* v. *Purdessy*
(2007-DR-37-0421)

5. *Marks* v. *Maxwell*
(2003-DR-37-0785)

6. *Mathis* v. *Mathis*
(2004-DR-37-379)

7. *Nicholson* v. *McCoy*
(2005-DR-37-693)

8. *Scruggs* v. *Scruggs*
(2009-DR-37-781)

9. *Shead* v. *Wright*
(2009-DR-37-527)

10. *Stancil* v. *Jackson*
(2002-DR-37-965)

11. *West* v. *Goss*
(2004-DR-37-309)

12. *Wood* v. *Guthrie*
(2007-DR-37-0716)

JUNE 18, 2010

1. *Norton* v. *Robinson*
(1991-DR-37-139)

JUNE 14, 2010

1. *Manly* v. *Bonecutter*
(2003-DR-37-0549)

MAY 19, 2010

1. *Atkinson* v. *Burdette*
(2007-DR-37-0330)

2. *Bagwell* v. *Byrd*
(2008-DR-37-0401)

3. *Davis* v. *Quick*
(2009-DR-37-0183)

4. *Dodson* v. *Greenlee*
(2010-DR-37-037)

5. *Drake* v. *Gorton*
(2010-DR-37-037)

6. *Fisher* v. *Cannon*
(2007-DR-37-0880)

7. *Haymon* v. *Earle*
(1997-DR-37-366)

8. *Newton* v. *Owens*
(2006-DR-37-0052)

9. *Odell* v. *Fretwell*
(2009-DR-37-719)

10. *Taylor* v. *Jenkins*
(2010-DR-37-122)

MAY 17, 2010

1. *Hendrix* v. *Arnold*
(1997-DR-37-974)

MAY 05, 2010

1. *Schwery* v. *Rogers*
(2001-DR-37-0227)

MAY 03, 2010

1. *Bennett* v. *Mote*
(1999-DR-37-0456)

APRIL 28, 2010

1. *Blassingame* v. *Holland* (2004-DR-37-887)
2. *Brooks* v. *Brooks* (2009-DR-37-595)
3. *Cade* v. *Clinksales* (2010-DR-37-131)
4. *Case* v. *Goodine* (2009-DR-37-0297)
5. *Crumpton* v. *Blackwell* (2005-DR-37-0876)
6. *Harden* v. *Craig* (2006-DR-37-413)
7. *Lee* v. *Jenkins* (2007-DR-37-268)
8. *Poole* v. *Cole* (2005-DR-37-521)
9. *Reese* v. *Crespo* (2008-DR-37-217)
10. *Smith* v. *Holland* (2007-DR-37-0815)
11. *Swafford* v. *Evans* (2009-DR-37-652)

APRIL 07, 2010

1. *Fassett* v. *Cambell* (2006-DR-37-739)

MARCH 31, 2010

1. *Jordan* v. *Carson* (1995-DR-37-0649)

FEBRUARY 17, 2010

1. *Crumpton* v. *Blackwell* (2007-DR-37-0644)
2. *DSS* v. *Floyd* (2006-DR-37-831)
3. *Elliott* v. *Elliott* (2008-DR-37-860)

JANUARY 20, 2010

1. *Hunter* v. *Cambell* (2009-DR-37-0066)
2. *Segur* v. *Carroll* (2004-DR-37-769)

JANUARY 06, 2010

1. *Burrell* v. *Guin* (2009-DR-37-374)

DECEMBER 09, 2009

1. *Lee* v. *Cartee* (2008-DR-37-0690)

NOVEMBER 18, 2009

1. *Jones* v. *Jones* (2001-DR-37-63)

OCTOBER 07, 2009

1. *Atkinson* v. *Burdette* (2007-DR-370-330)
2. *Eller* v. *Carver* (2002-DR-37-524)
3. *Dickard* v. *Bentley* (2006-DR-37-0744)
4. *Martin* v. *Blackwell* (2008-DR-37-00498)

AUGUST 12, 2009

1. *Horn* v. *Winkler* (2005-DR-37-0707)

JULY 08, 2009

1. *DSS* v. *Elliott* (2008-DR-37-682)

JUNE 3, 2009

1. *DSS* v. *Callaway*
(2009-DR-37-254)

FEBRUARY 25, 2009

1. *DSS* v. *Church*
(2006-DR-37-743)

FEBRUARY 04, 2009

1. *Branyan* v. *Moore*
(2004-DR-37-361)

NOVEMBER 12, 2008

1. *Newton* v. *Owens*
(2006-DR-37-052)

JUNE 18, 2008

1. *Norton* v. *Robinson*
(1991-DR-37-139)

MARCH 07, 2007

1. *DSS* v. *Wood*
(2006-DR-37-315)
