

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

**TERESA BEATTY, NATASHA TOSADO,
and DOUGLAS JOHNSON,**

Plaintiffs,

v.

MICHELLE GILMAN, Commissioner of the
Connecticut Department of Administrative
Services, **AND ANGEL QUIROS**,
Commissioner of the Connecticut Department
of Corrections, in their official capacities.

Defendants.

Civil Action No. 22-cv-380-JAM

July 9, 2024

THIRD AMENDED COMPLAINT

Plaintiffs Teresa Beatty, Natasha Tosado, and Douglas Johnson bring this action for relief declaring the oppressive prison debt imposed upon them by the State of Connecticut invalid and in violation of the Excessive Fines Clause of the United States Constitution, and permanently enjoining the Commissioners of the Connecticut Department of Administrative Services and Connecticut Department of Correction from ever using or enforcing the challenged laws against them.

A. The nature of this action.

1. Since 1997, Connecticut has obligated people who have been incarcerated, and those who are currently incarcerated, to pay exorbitant amounts for each day they spend in prison. Currently, Connecticut charges \$323 per day, or \$117,895 per year, for incarceration. The resultant prison debt—imposed on people who are almost uniformly destitute, and two-thirds of whom are people of color—is crippling. Even people who are held in custody while awaiting

trial because they cannot afford bail face staggering bills upon sentencing. And, many have no idea of their crushing debt until the State suddenly seeks to claim it.

2. As Connecticut spends more and more money incarcerating fewer and fewer people, each person's carceral debt spirals upward. Connecticut has gone from charging people \$31,755 a year for their own incarceration in 1997, to charging \$117,895 today: a roughly 317% increase. By contrast, according to the Consumer Price Index, inflation has only increased 87% during this same time period. A person serving just one year's imprisonment today owes the State for more than what an in-state student would for two and a half years' attendance at the University of Connecticut, including housing, food, and books.

3. Connecticut's prison debt rates are the highest in the country by far. Meanwhile, some states have abolished prison debt entirely, and others collect rarely, if ever. Even those that do collect, do so for negligible amounts. New York, for example, charges \$1 per week, and only if a person is working and paying will not cause hardship.

4. While legislative changes in May 2022 narrowed Connecticut's prison debt scheme, they did not abolish it. The Plaintiffs, unfortunately, are among the thousands of people unaffected by the recent legislative amendment. The Plaintiffs are still on the hook for paying thousands upon thousands of dollars, years—or even decades—after they finish serving their sentences.

5. Worse yet, they are being forced to pay this money out of property they have inherited from recently deceased loved ones, or savings they have worked hard to leave to their own children.

6. By robbing people of their ability to inherit or pass on money, Connecticut's prison debt laws punitively and arbitrarily impose an additional sentence on people who have

already served their time. Piling debts of this magnitude on people sentenced to imprisonment inhibits intergenerational wealth transfers and violates the Excessive Fines Clause of the United States Constitution. Accordingly, Ms. Beatty, Ms. Tosado, and Mr. Johnson seek relief on behalf of themselves, and the putative class to have this unlawful statutory scheme stricken.

B. Jurisdiction and venue.

7. This Court has subject matter jurisdiction over this dispute by virtue of 28 U.S.C. § 1331 because all of the claims arise under the United States Constitution.

8. Venue properly lies in this district in accordance with 28 U.S.C. § 1391(b)(2), as all events giving rise to the claims occurred within the District of Connecticut.

C. Defendants Gilman and Quiros.

9. Defendant Michelle Gilman is the Commissioner of the Connecticut Department of Administrative Services (“DAS”).

10. Defendant Gilman is responsible for collecting debts for “other state agencies and departments as shall be agreed to,” including the Connecticut Department of Correction (“DOC”). Conn. Gen. Stat. § 4a-12.

11. As commissioner, Defendant Gilman has authority to refer any debt brought to the attention of DAS to a consumer collection agency. *Id.*

12. By agreement with the DOC, DAS collects prison debt owed by incarcerated and formerly incarcerated people.

13. By statute, the Connecticut Probate Court notifies DAS whenever an estate beneficiary has served, or is serving, time in a Connecticut prison.

14. The probate court also notifies DAS whenever a decedent who left an estate was serving, or had served, time in a Connecticut prison.

15. DAS is notified by the Attorney General's Office, or by a civil plaintiff's legal counsel, whenever an incarcerated or formerly incarcerated person has a lawsuit or legal claim for monetary damages.

16. For each person owing prison debt to be collected by Defendant Gilman's agency, the DOC supplies DAS with records showing what the DOC contends that the person owes.

17. Defendant Quiros is the commissioner of the DOC.

18. As commissioner, Defendant Quiros is tasked with setting the cost of prison stays, and collecting prison debt from those who are, or were, incarcerated. *Id.* § 18-85a.

19. Defendant Quiros also has authority to request that the Connecticut Attorney General prosecute debt collection actions against people who owe prison debt. *Id.*

20. Defendant Quiros exercises that authority, directing the Attorney General to do so, or to contest Probate Court proceedings in which prison debt is disallowed.

D. Plaintiff Teresa Beatty.

21. Ms. Beatty is a sixty-year-old resident of Waterbury, Connecticut.

22. In her youth, Ms. Beatty developed a substance use disorder and was convicted of a string of offenses relating to her disorder.¹

23. Ms. Beatty was incarcerated by Connecticut between 2000 and 2002 for three charges stemming from a sale of marijuana and cocaine.

¹ They were larceny (sixth) in 1984 and 1985; criminal trespass (third) and possession of drug paraphernalia in 1989; possession of drug paraphernalia in 1992 and 1993; criminal trespass (third) and possession of drug paraphernalia in 1993; possession of narcotics in 1994; larceny (sixth), failure to appear (second and first), and another larceny (sixth) in 1996; possession of a controlled substance and larceny (sixth) in 1997; and assault (third) in 1998. Ms. Beatty pleads them here solely because she expects the defendants to rely upon them and object to their absence from the pleadings. She does not believe them relevant, and reserves the ability to contest that point.

24. Police reports allege² that in January and February 2000, Ms. Beatty drove to meet one or more undercover police employee to sell them marijuana and cocaine, and was observed getting out of her car and consummating the sales before returning to her car and driving away. The reports allege that one or two of Ms. Beatty's children were in her car on two of the occasions.

25. Ms. Beatty pleaded guilty to first-offense possession of a hallucinogen other than marijuana, Conn. Gen. Stat. § 21a-279(b), sale of a controlled substance, *id.* § 21a-277(b), and risk of injury to a minor, *id.* § 53a-21.³

26. None of the conviction counts were for conspiracy or any other inchoate crime, and Ms. Beatty had no codefendants.

27. The possession charge was then punishable by five years' imprisonment and a \$2,000 fine. *Id.* § 21a-279(b) (1994). The offense has since been reduced and reclassified as a class A misdemeanor, *id.* § 21a-279(a)(1),(2), for which the maximum prison time is 364 days, *id.* § 53a-26(d), and the maximum fine is \$2,000. *Id.* § 53a-42(1).

² The allegations are presented for context only, as the allegations were untested and Ms. Beatty was not convicted of all of the allegations. Moreover, it is not clear what facts underlay the counts to which she pleaded guilty (if any, given the practice of fact bargaining).

³ Records show that the police considered initially charging Ms. Beatty with other offenses that either never made it to court or were dropped: possession of narcotics, Conn. Gen. Stat. § 21a-279(a); sale of narcotics, *id.* § 21a-278(b); possession of narcotics with intent to sell, *id.* § 21a-278(b); possession of marijuana, *id.* § 21a-279(c); possession of more than four ounces of marijuana, *id.* § 21a-279(b); possession of marijuana with intent to sell, *id.* § 21a-277(b), sale of marijuana *id.* § 21a-277(b); and possession of drug paraphernalia, *id.* § 21a-267(a). However, the Superior Court has destroyed the records of the case pursuant to its retention rule, and it is impossible to tell whether those contemplated charges were ever laid against Ms. Beatty, or if they were, whether they were dismissed for legal deficiencies or as part of plea bargaining. In either event, none comprised the convictions resulting in Ms. Beatty's time in prison and subsequent debt.

28. The controlled substance sale charge was punishable by seven years' imprisonment and/or a \$25,000 fine. *Id.* § 21-277(b) (1987).

29. The risk of injury charge was a class C felony, *id.* § 53a-21 (1997), and therefore punishment was limited to ten years' imprisonment, *id.* § 53a-35a(7) (1994), and/or a fine of \$5,000. *Id.* § 53a-41 (1992).

30. For the three conviction counts, the Superior Court sentenced Ms. Beatty to eight years' prison suspended after fifty-four months, with a period of probation to follow the executed portion of the prison sentence. The court did not sentence Ms. Beatty to pay a fine, or to any forfeiture.

31. Ms. Beatty has not returned to prison since walking free in 2002.

32. Ms. Beatty was a lifelong resident of Stamford until the sale of her childhood home in 2023. Like nearly 40% of the people currently held by the DOC, Ms. Beatty is Black.

33. Ms. Beatty is a certified nursing assistant and helps care for her older brother James, who is disabled.

34. Ms. Beatty is one of the five children of Minnie and James Mills, Senior.

35. Mr. and Mrs. Mills worked hard and saved carefully all their lives. They were able to purchase a house in Stamford at 34 Raymond Street.

36. Ms. Beatty, along with her brother James, lived at the house at 34 Raymond Street for decades.

37. Ms. Beatty cared for her mother in the years leading up to her death. When Mrs. Mills passed away in 2020, Ms. Beatty knew that her mother had left her a portion of the house.

38. Following her death, Mrs. Mills's estate was opened for administration in the Stamford District of the Connecticut Probate Court.

39. In her will, Mrs. Mills made a number of specific bequests, and left the balance of her estate to four of her children in varying percentages. Ms. Beatty is to receive 40%.

40. There are five beneficiaries to the Mills estate, and three fiduciaries. Ms. Beatty is one of both groups.

41. Ms. Beatty is also a creditor to the Mills estate, having paid certain bills for her mother's house before and after Ms. Mills died, and a debtor to it, as she and her brother James lived in the house after Ms. Mills's death. The probate court is considering both Ms. Beatty's claims against the estate, and the estate's claims against Ms. Beatty.

42. After the specific bequests, the house at 34 Raymond Street was the only item remaining in Mrs. Mills's estate.

43. Four of Mrs. Mills's five children are beneficiaries to the remaining estate, so the probate court authorized the sale of the house at 34 Raymond Street.

44. In early April 2023, the house was sold for \$625,000.

45. Ms. Beatty plans to use her share of the house's sale proceeds to defray the costs of substitute housing she purchased.

46. As of September 2023, the value of Mrs. Mills's estate is estimated at \$407,154. If no amount is deducted from this sum, Ms. Beatty will owe the state a maximum of \$56,430.80. However, even considering potential deductions from the estate, Ms. Beatty must reimburse Connecticut for some share of her prison debt so long as the estate's value does not dip below \$125,000.

47. Though Ms. Beatty was briefly incarcerated nearly two decades ago, like many people, she had no idea that she apparently owed thousands of dollars for her stay in prison.

Nevertheless, shortly after her mother's passing, Defendant Gilman's DAS filed a notice in the probate court alleging that Ms. Beatty owes Connecticut \$83,762.26 for her time in custody.

48. The Defendants' purported claim to Ms. Beatty's inheritance includes \$55,000 for the 452 days spanning state fiscal years 2000 and 2001, during which she sat in pretrial detention because she could not afford bail.

49. Quiros and Gilman's demand also includes \$33,517 for her post-sentence incarceration, spanning fiscal years 2001 and 2002.

50. The defendants charge \$123 a day for incarceration at the state's women's prison in fiscal year 2000, \$122 for the same in fiscal year 2001, and \$99 for the same anywhere in the state prison system in fiscal year 2002.

51. DAS has never withdrawn or modified the lien, nor filed anything notifying the probate court of its intent not to collect.

52. While her share of the estate will not make or break the state of Connecticut's approximately \$25 billion budget, the loss of any of it will be devastating to Ms. Beatty. Now out of her childhood home, she wishes to use her share of its sale proceeds to support herself.

E. Plaintiff Natasha Tosado.

53. Ms. Tosado is a 41-year-old resident of Hamden, Connecticut.

54. In her twenties, Ms. Tosado developed an opioid use disorder and became enmeshed in a long-term domestic violence relationship with an intimate partner resulting in two convictions.⁴

⁴ The convictions were for assault (third) conviction in 2012 and a probation violation in 2014. Ms. Tosado pleads them here solely because she expects the defendants to rely upon them and object to their absence from the pleadings. She does not believe them relevant, and reserves the ability to contest that point.

55. Ms. Tosado was incarcerated by the State of Connecticut between July 2016 and April 2018 as a result of a prosecution commenced against her in 2015.

56. Since she completed that incarceration, Ms. Tosado has never returned to prison.

57. Ms. Tosado describes the convictions leading to her incarceration as being drug-related because she was at the time struggling with opioid use disorder and making poor decisions as a result.

58. In the prosecution leading to her convictions, Ms. Tosado was charged for carrying a friend's lawfully owned gun while driving, which police found during a traffic stop.⁵

59. Ms. Tosado pleaded guilty to the illegal possession of an assault weapon, Conn. Gen. Stat. § 53-202c, having a weapon inside of a motor vehicle, *id.* § 29-38, and two counts of failure to appear (first degree), *id.* § 53a-172.⁶

60. None of the conviction counts were for conspiracy or any other inchoate crime, and Ms. Tosado had no codefendants.

61. The weapon possession charge was punishable by imprisonment of five years or less, §§ 53-202c(a) (2013), 53a-35a(8) (2012), and a \$5,000 fine. *Id.* § 53a-41(4) (2012).

⁵ The gun was returned to its owner following the resolution of Ms. Tosado's prosecution. He was not charged with any offense related to the incident.

⁶ The latter charges were added after case initiation and reflect an allegation that Ms. Tosado failed to attend court as required during its pendency. Ms. Tosado was at some point in the prosecution charged with additional counts that were later dropped: criminal possession of a firearm, Conn. Gen. Stat. § 53a-217, and illegal possession of a large capacity magazine. *Id.* § 53-202(c)(2). Neither of those comprises the convictions resulting in debt-generating prison time. Ms. Tosado was also issued traffic infractions for failing to carry her driver license and for failing to drive within her lane, but infractions are not criminal offenses and adjudications of them are not convictions. Conn. Gen. Stat. §§ 53a-24(a), -27. Additionally, on the same day that Ms. Tosado pleaded guilty to the weapons charges, she pleaded guilty and received unconditional discharge on a disorderly conduct count in a different case in the which the events at issue transpired months after the events giving rise to the weapons charges.

62. The weapon-in-a-motor-vehicle charge was punishable by five years' incarceration, *id.* §§ 29-38, 53a-35a(8) (2012), and a \$5,000 fine. *Id.* § 53a-41(4) (2012).

63. The failure to appear charges were each punishable by five years' incarceration §§ 53a-172, -35a(8) (2012), and a \$5,000 fine. *Id.* § 53a-41(4) (2012).

64. Following conviction, the superior court sentenced Ms. Tosado to unconditional discharge on the failures to appear—that is, adjudicated her guilty but levied no punishment. On the weapons charges, it sentenced her to ten years' imprisonment suspended after two years, followed by a period of probation. The court did not sentence her to payment of a fine.

65. On May 9, 2017, while Ms. Tosado was incarcerated, Bridgeport police employee James Boulay shot and killed her son, Jayson. Jayson was 15 years old.

66. When prison officials informed Ms. Tosado that her son had been killed, they placed her in solitary confinement.

67. Jayson Negron's estate was opened for administration in the Bridgeport district of the Connecticut Probate Court.

68. A teenager at the time of his death, Jayson left this life intestate. Ms. Tosado and Jayson's father are the sole beneficiaries of his estate.

69. In 2020, the fiduciary of Jayson's estate, Christopher Goulden, filed a lawsuit in this Court against Boulay, then-police chief Armando Perez, and Bridgeport itself. Among other things, the lawsuit alleged that Boulay used excessive force and acted recklessly, and that the city's police employees had a track record of escalating interactions with the public to violent ends. *See* Complaint, *Goulden v. Boulay*, No. 3:20-cv-00400-JBA (D. Conn. Mar. 25, 2020).

70. In December 2022, the *Goulden* defendants agreed to pay Jayson's estate to settle the lawsuit. The settlement amount comprised the entirety of Jayson's estate, and as one of two beneficiaries, Ms. Tosado was entitled to receive half.

71. There are no creditors to the estate, no claims against the estate, and no debts of the estate needing to be paid. All that remains is the distribution of the estate's assets to its beneficiaries.

72. Shortly after the *Goulden v. Boulay* lawsuit settled, Defendant Gilman's DAS filed a notice in the probate court alleging that Ms. Tosado owes Connecticut for the roughly two years she was incarcerated.

73. The state calculated Ms. Tosado's total prison debt as \$129,641 for the three fiscal years in which she was held (2016, 2017, and 2018).

74. The defendants charge \$181 a day for incarceration in fiscal year 2016, \$185 a day for fiscal year 2017, and \$204 for fiscal year 2018.

75. After factoring in the *Goulden* settlement and number of beneficiaries, DAS notified the probate court that the state sought \$44,028.98 to satisfy Ms. Tosado's lien.⁷

76. DAS has never withdrawn or modified the lien, nor filed anything notifying the probate court of its intent not to collect.

77. Mr. Goulden has distributed the uncontested share of Ms. Tosado's inheritance to her and had his counsel hold the \$44,028.98 in trust pending the resolution of her claim in this

⁷ To calculate this amount—and in keeping with the May 2022 amendments—DAS took Ms. Tosado's share, subtracted \$50,000, and then divided it in half, pursuant to Conn. Gen. Stat. § 18-85b(a).

Court, an arrangement agreed to by Defendant Gilman's lay representative in the probate proceedings.⁸

78. Prior to incarceration, Ms. Tosado worked as a licensed pharmacy technician. After she was released from prison, she returned to that line of work but began training to help others recover from substance use disorders.

79. Ms. Tosado now works as a recovery coach covering emergency departments throughout Connecticut, helping people with substance use disorder obtain treatment.

80. Along with her daughter Jazmarie, she has committed to keeping Jayson's memory alive and sharing her personal story widely to help protect "the other Jaysons out there."

81. Ms. Tosado will never stop grieving Jayson's death. According to Ms. Tosado, her feeling that she was unable to protect her young son while she was incarcerated is "part of the guilt I carry every day."

82. The state's attempt to collect on the heels of her family tragedy has caused Ms. Tosado tremendous pain, forcing her to relive the traumatic circumstances of Jayson's death. For Ms. Tosado, the proceeds from the family's settlement represent more than money: they are proof that government authorities were forced to reckon with Jayson's killing, and that his life mattered. The challenged statutes' insistence that Ms. Tosado pay Connecticut from the proceeds of litigation over her son's death is hopelessly cruel.

F. Plaintiff Douglas Johnson.

83. Mr. Johnson is a 44-year-old resident of Branford, Connecticut.

⁸ Conn. Gen. Stat. § 45a-131 permits the Department of Administrative Services to participate in probate matters through non-lawyers when attempting to collect prison debt.

84. Mr. Johnson struggled with substance use from a young age, developing alcohol and substance use disorders in his teenage years that resulted in a number of convictions.⁹

85. Mr. Johnson was incarcerated by the Connecticut Department of Correction for 25 months from February 2002 to March 2004.

86. His incarceration resulted from a 2002 guilty plea in the Connecticut Superior Court to possession of narcotics, Conn. Gen. Stat. § 21a-279(a), and a violation of probation. *Id.* § 53a-32.¹⁰

87. None of the conviction counts were for conspiracy or any other inchoate crime, and Mr. Johnson had no codefendants.

88. The filings in Mr. Johnson's case were destroyed pursuant to the Superior Court's records retention rule, so it is not possible to see what substance Connecticut alleged Mr. Johnson to have possessed (if even included in the charging instrument), or whether fact bargaining yielded the charge to which he ultimately waived his trial right. At the time, the possession offense defined "narcotic" as either an opiate or cocaine. *See* Conn. Gen. Stat. § 21a-240(30) (1990).

⁹ The convictions were for a misdemeanor in 1997 whose statutory citation is illegible in the relevant record, criminal impersonation, assault (third), and threatening in 1998; a probation violation and assault (second) in 1999; and a probation violation and sale of a hallucinogen or narcotic in 2000. Mr. Johnson pleads them here solely because he expects the defendants to rely upon them and object to their absence from the pleadings. He does not believe them relevant, and reserves the ability to contest that point.

¹⁰ Connecticut probation violations may be charged as standalone offenses, or considered by the superior court without an arrest and charge as part of its ongoing supervision of a person serving the probationary portion of a sentence. It is not clear which occurred here: the extant court records show a conviction only for the possession charge, while Mr. Johnson's state conviction history shows one for the violation, as well. In either event, Mr. Johnson does not dispute that the superior court by one vehicle or another concluded that he had violated the terms of an earlier-imposed probationary sentence.

89. Mr. Johnson does not remember what substance he was accused of possessing or what probation condition he was accused of violating. At deposition in this matter, he testified that the relevant period was “a very dark part of my life” during which he “used basically any kind of drug,” and that the passage of time and the intoxication of those years have left him unable to remember the details.

90. However, Mr. Johnson remembers the day of his arrest for possession as “the last arrest, the last day, the last everything,” marking “the end of my old self.”

91. He has not returned to prison since walking free in March 2004.

92. At the time of his conviction, the first-offense possession of narcotics that Mr. Johnson was charged with was subject to a maximum incarceration term of seven years and/or a fine of \$50,000. *Id.* § 21a-279(a) (1994).¹¹

93. Probation violations carry no possibility of prison time beyond that already imposed in the prior prosecution ending in a probationary sentence.¹²

¹¹ Connecticut has since greatly reduced the severity of the war-on-drugs era version of the statute. Nowadays, § 21a-279(a)’s first-time provision punishes possessing “any quantity of any controlled substance, except . . . cannabis” as a class A misdemeanor, *id.* § 21a-279(a)(1),(2), meaning that the maximum prison time is one year, *id.* § 53a-26(d), and the maximum fine is \$2,000. *Id.* § 53a-42(1).

¹² Due to probation’s remedial nature (and for double jeopardy reasons), violations have no penalty separate from the probationary sentence allegedly violated. *See generally State v. Smith*, 540 A.2d 679, 692-93 (Conn. 1988) (explaining that adjustment of probation “is a continuing consequence of the original conviction from which probation was granted.”). In 2002, as now, there were four permissible outcomes of a proven violation: (1) no alteration to the probation, (2) modification “of the conditions of probation,” (3) an extension of “the period of probation,” subject to separate statutory maximum lengths, or (4) termination of probation, that is, remand to prison to serve a portion of incarceration time suspended in the original sentence. Conn. Gen. Stat. § 53a-32(b) (1999). Imprisonment time resulting from probation revocation was capped at “the sentence imposed,” with the court possessing the discretion to order a violator to serve “any lesser” period of incarceration than that remaining on the suspended sentence. *Id.*

94. The superior court sentenced Mr. Johnson to thirty months' imprisonment, with probation to follow. It did not sentence him to paying any fine.

95. He began his recovery while incarcerated, taking advantage of every possible program and learning opportunity he was offered.

96. As soon as he was released in 2004, Mr. Johnson started attending Alcoholics Anonymous. He has remained sober for over 20 years.

97. Now, Mr. Johnson proudly serves as an Alcoholics/Narcotics Anonymous sponsor, and regularly volunteers to speak to and mentor others in recovery, including people who have been incarcerated.

98. In addition to his volunteer efforts with the recovery community, Mr. Johnson works full-time as a mason at Yale University.

99. Mr. Johnson is married and has three children. His eldest daughter began college in the fall of 2022.

100. Mr. Johnson has one brother, who works as a police officer in Branford.

101. In August 2021, just five years after his mother passed, Mr. Johnson suffered the loss of his father, Richard Johnson.

102. In January 2022, Richard Johnson's estate was admitted for administration in the Branford-North Branford district of the Connecticut Probate Court.

103. Richard Johnson's will bequeathed to Doug and his brother equal shares of his estate. Doug and his brother are the co-fiduciaries of the estate, and the only two beneficiaries of the estate.

104. There are no creditors to the Richard Johnson estate, and no claims against the estate.¹³ All of the estate's debts have been paid, and all that remains is for the contents of the estate to be passed to Doug and his brother as co-owners.

105. The entirety of the estate comprises Richard Johnson's bank account (less than \$5,000) and a few, cherished items: a boat that's been in their family since 2007, land in North Guilford that Richard Johnson owned for over fifty years and enjoyed camping and spending time on with his sons, and a truck that he used to drive.

106. Mr. Johnson was going to use his share of whatever remains of the \$5,000 to help pay for his daughter's college tuition. He and his brother plan to continue to use the boat, truck, and land to remember their father and to make new memories with their own families.

107. But immediately after the estate's opening, Defendant Gilman's DAS filed a Notice of Lien for the full amount of Douglas Johnson's incarceration: \$74,652.58 for the three fiscal years in which he was incarcerated (2002, 2003, and 2004).

108. The defendants charge \$99 for a day of incarceration in fiscal year 2002, \$96 for each such day in fiscal year 2003, and \$104 for each such day in fiscal year 2004.

109. DAS has never withdrawn or modified the lien, nor filed anything notifying the probate court of its intent not to collect.

110. Because of Defendants' lien against Doug's portion of the estate, he and his brother will be forced to sell their father's cherished possessions to convert them into funds to pay the Defendants.

¹³ Another estate—that of Richard Johnson's girlfriend—made a claim for title to the boat, but the probate court upheld the disallowance of that claim in February 2024 and no appeal was taken by the claimant, permanently settling the question in the Johnson estate's favor.

111. While Mr. Johnson is mourning the death of both of his parents, he is now also confronting immense guilt for imposing his carceral debt onto his brother. Mr. Johnson regrets that his brother is being penalized for mistakes that Mr. Johnson made as a young teenager, especially because the defendants' lien asserts partial ownership over property that the Johnson brothers should inherit—and make decisions about—as co-owners free and clear of a third party.

112. In the decades since Mr. Johnson's incarceration, he has worked hard to have a career, support his family, and stay sober. Defendants' actions to satisfy a 20-year-old lien are nothing short of punishment.

G. October 1997 – May 2022: Connecticut automatically imposes prison debt upon everyone its courts sentence to incarceration.

113. Every person imprisoned by Connecticut after October 1997 owes the state “for the costs of such [person]'s incarceration.” *Id.* § 18-85a(b).

114. Each person's debt encompasses costs accrued in the past, as well as those that “the state will reasonably incur to incarcerate the [person] until [their] maximum release date.” Conn. Agencies Regs. § 18-85a-1(a). Hence, on their first day of incarceration, a person subject to the challenged statutes already owes the state for their entire sentence.

115. From October 1, 1997 until May 7, 2022, Connecticut was entitled to collect a person's prison debt by:

(a) taking any property the person owns during their incarceration, Conn.

Gen. Stat. § 18-85a(b);

(b) if the person is involved in a lawsuit, taking either the full debt amount, or

50% of any judgment or settlement that the person obtains, whichever is

less, *id.* § 18-85b(a);

(c) taking the same from the person's inheritance, *id.* § 18-85b(b);

(d) seizing the entire debt from the person's estate upon their death, *id.* § 18-85c; or

(e) taking the person's lottery winnings after securing a debt collection judgment against them. *Id.* § 18-85a(b)(2).

H. May 2022—present: Connecticut narrows its prison debt statutes, but Plaintiffs and the putative class remain indebted.

116. In May 2022, after significant advocacy by many people and organizations in Connecticut, the Connecticut General Assembly passed a budget bill that narrowed the groups of people from whom the state can collect prison debt. *See* 2022 Conn. Pub. Acts 118 §§ 457, 458.

117. The amendments went into effect on May 7, 2022, making two relevant changes that apply prospectively and retrospectively.

118. First, the new law exempts up to \$50,000 of a person's assets from a given collection attempt—but does not apply to people convicted of certain crimes. *See id.* §§ 18-85a(b) (denying the exemption to those convicted of certain listed offenses). Although the defendants refused to commit to an interpretation of the 2022 amendments in front of the Court, discovery yielded a document showing that Defendant Gilman's agency interprets the \$50,000-per-collection-attempt exemption to apply to § 18-85b inheritances such as the plaintiffs'.

119. Second, the new law exempts most people from the state's lien against lawsuit proceeds. *See id.* § 18-85b(a). However, the 2022 statutory amendments did not extend the same exemption to the state's liens against inheritances, *id.* § 18-85b(a), or estates, *id.* § 18-85b(b). Therefore, beneficiaries who are or were incarcerated, as well as the estates of such people, remain on the hook for prison debt regardless of conviction offense.

120. Accordingly, these legislative changes do not change much for the named Plaintiffs and those similarly situated. Because Plaintiffs are beneficiaries of an estate, their liens remain.

121. Connecticut's prison debt scheme is an extreme outlier. Some states do not impose prison debt. Others do but collect rarely, if ever. Even those that do collect, do so for negligible amounts. New York, for example, charges \$1 per week, and only if a person is working, and paying will not cause undue hardship to their family.

122. Meanwhile, Connecticut continues to charge the highest rates in the country.

I. Connecticut prison debt is calculated by multiplying two factors: the state's daily cost of incarceration, and the number of days that the debtor was, and will be, confined.

123. Defendant Quiros' DOC is charged with calculating the amount of money owed by those it has imprisoned. *Id.* § 18-85a.

124. Quiros's department calculates the amount owed by each incarcerated person by multiplying two components: (1) "the average per capita cost, per diem, of all component facilities within the Department of Correction" for each state fiscal year in which the person was confined, and (2) the duration of the person's confinement during each fiscal year. Conn. Agencies Regs. § 18-85a-1(a).

125. For example, to determine the prison debt owed by a person who served a sentence from June 1, 2017 to August 1, 2019, Defendant Quiros or one of his employees would first locate the state's designated "average per capita cost, per diem" of imprisonment for each of the four fiscal years that the person's incarceration spanned: 2017 (June 1, 2017 to June 30, 2017), 2018 (July 1, 2017 to June 30, 2018), 2019 (July 1, 2018 to June 30, 2019), and 2020 (July 1, 2019 to their release on August 1, 2019). Quiros would then multiply the relevant daily

rate by each day in the corresponding fiscal year that the person was incarcerated: 30 days in FY2017, 365 days in FY2018, 365 days in FY2019, and 30 days in FY2020.

126. The incarcerated person “shall be responsible to pay” the resulting figure. *Id.* § 18-85a-2.

127. Notably, Connecticut charges people for time spent in pretrial detention on a charge resulting in a conviction. So, a person who spends a year in prison awaiting trial because they could not afford to make bail will, upon conviction, immediately owe the state money for the year in which they were jailed because they did not have enough money to bail out.

J. The state’s daily assessed cost of incarceration for each fiscal year is calculated in hindsight, after the state closes its books.

128. The “average per capita cost, per diem, of all component facilities within the Department of Correction” for any given fiscal year, *id.* § 18-85a-1(a), is frequently shorthanded as the state’s “assessed cost” of incarceration, and will be so here.

129. The assessed cost is designated by Defendant Quiros’s DOC for each fiscal year after its close, when all expenditures may be tallied. The tallying is not done promptly, however: it has taken Quiros or his predecessors a year or more to fulfill their duty to affix an assessed cost.

130. For example, Defendant Quiros has still not set an assessed cost for fiscal year 2022, one year and eight months after it ended.

131. Hence, although a person automatically becomes obligated to pay “for the costs of such [person]’s incarceration” upon reporting to prison, Conn. Gen. Stat. § 18-85a(b), the person cannot know the *amount* of their debt until some future point at which the correction commissioner sets an assessed cost for each fiscal year in which the person was incarcerated.

132. Quiros's department designates the assessed cost for each fiscal year with the assistance of Connecticut's bookkeeper, the Office of the State Comptroller.

133. To arrive at a fiscal year's suggested assessed cost for Defendant Quiros's approval, the Comptroller (1) sums all Department of Correction expenditures at the state's prisons during the fiscal year, (2) divides that sum by the total number of person-days spent in all prisons in the system to arrive at a per-person, per-day cost. The Comptroller also furnishes Defendant Quiros with an assessed cost for each prison, which Quiros's predecessors used to assign prison debt until fiscal year ending 2002.

134. Depositions in this matter revealed that when calculating the number, the Comptroller uses cost accounting to determine the cost of incarcerating one person for one day, for the purpose of accurately accounting for every cent spent by the DOC in a given year.

135. For purposes of cost accounting, a 'cost' is not necessarily a payment, but includes liabilities or obligations incurred as well as the actual payment of funds.

136. To arrive at the DOC's total expenditures in a fiscal year, the Comptroller sums the DOC's direct costs, overhead costs, and fringe costs.

137. The DOC's direct costs are those costs directly related to incarcerating a person, such as the wages of the correctional employees working at a prison, or the electricity consumed by the prison.

138. The DOC's overhead costs are those related to imprisoning people but not directly attributable to housing a person, such as central office administrative functions or the DOC's staff training programs.

139. The DOC's fringe costs are those related to each employee's salary, including Federal Insurance Contribution Act payments to the national government, health insurance premiums, and pension fund contributions.

140. To the direct, overhead, and fringe costs, the Comptroller adds the DOC's proportional share of statewide central services such as the Attorney General's Office, the Comptroller, and the Auditors of Public Accounts, which are collectively accounted for in the Statewide Cost Allocation Plan (SWCAP).

141. SWCAP is administered to conform with 2 C.F.R. pt. 200, app. 4, which sets out the national government's standards for allocating indirect costs of programs receiving federal funds.

142. SWCAP accounts for the cost of the defendants' counsel in this action, for example, as well as the state's annual contribution to its employee retirement system for the defendants, all of their employees, and their counsel.

143. The only items excluded from the ambit of the Comptroller's DOC cost accounting are those that are either not paid out of the state's general fund (such as federal grant monies) or not attributable to keeping people behind bars (such as the state's Board of Pardons and Parole, or the DOC's payments to reentry organizations).

144. As a result, for purposes of calculating an assessed cost, DOC's total expenditures include all money spent on its archipelago of prisons statewide. The annual figure includes things from high to low, including but not limited to the wages of its employees, payroll taxes, the food fed to the DOC's compliment of guard dogs, the cost of operating the coffee shop at

DOC headquarters, the operating costs of every program or service at each prison, and the construction, maintenance, and renovation of buildings and grounds.¹⁴

145. The expenditures also include the straight-line depreciation of buildings and equipment, as well as the debt service on each prison, whether it houses people or has long been closed.

146. DOC's expenditures for purposes of the assessed cost of incarceration run in the neighborhood of \$1 billion. Fiscal year 2019, for example, totaled some \$1.08 billion.

147. The second element in a fiscal year's assessed cost is what DOC terms "inmate days," the annual total of person-days in custody. One person being incarcerated for a single day is an "inmate day," and so 1000 people in a given prison for a year would account for 365,000 inmate days. In fiscal year 2019, for example, there were 4,857,933 inmate days.

148. The inmate days figure is the one by which the DOC's total expenditure figure is divided to arrive at each incarcerated person's share of the daily cost of running the system.

149. So, for fiscal year 2019, \$1.08 billion in expenditures divided by 4,857,933 inmate days yielded an assessed cost of \$224 per person per day.

150. In addition to being both automatic and inchoate at the time of sentencing, Connecticut prison debt has a further infirmity: the amount of the debt does not depend on the actions of the debtors themselves, but on those of third parties. People obligated to pay for their incarceration have no say in either factor—expenditures or population—driving their future debt levels.

¹⁴ The annual figure does not include Connecticut's present or future pension and healthcare liabilities to current employees, which the state draws from a different pool of money than the general fund.

K. Prison spending is the product of third-party decision making, by Connecticut's executive and legislative branches.

151. The first assessed cost factor, spending, is a political decision by the executive and legislative branches.¹⁵

152. The state's legislature allocates an annual budget for the DOC before the start of each fiscal year, and Defendant Quiros decides whether and how to keep expenditures within that allocation.

153. He and his predecessors usually fail to do so. The DOC has been historically unable or unwilling to restrain corrections overtime spending, which has outsized effects on the people saddled with carceral debt.

154. This outsized effect has been exacerbated during the COVID pandemic. Between July 2020 and June 2021, overtime expenditures jumped by \$13 million,¹⁶ as coverage was needed for the swaths of prison employees who contracted the virus and were entitled to fourteen days' paid time off under a labor agreement between Connecticut's government and its correction employees' labor union.¹⁷

155. Those expenditures, alone, added around \$1,500 to the debt of each person imprisoned during fiscal year 2020.

¹⁵ Connecticut has stripped those imprisoned for a felony conviction of the ability to vote, Conn. Gen. Stat. § 9-46(a). Approximately 74% of people held in the state's prisons are there for such a conviction. Accordingly, about three-quarters of the people imprisoned do not even have indirect, democratic influence over how much the legislative and executive branches decide to spend on incarceration.

¹⁶ Conn. Office of Fiscal Analysis, FY 21 Agency Overtime Report (Aug. 25, 2021), *available at* https://cga.ct.gov/ofa/Documents/year/OT/2021OT-20210824_Agency%20Overtime%20Report%20FY%2021%20Q4.pdf.

¹⁷ Conn. Office of Policy and Mgmt., General Notice No. 2020-03 ¶¶ 2, 4, 6 (June 18, 2020), *available at* <https://portal.ct.gov/-/media/OPM/OLR/Notices/2020-03-Mandatory-COVID-19-Testing.pdf>

156. The overtime expenditure problem is likely to be worse when the books close on the current fiscal year. For example, the DOC reported to the public on its website that roughly one of every six of its employees contracted COVID in January 2021 alone. The people incarcerated during this fiscal year can only watch helplessly as their debt mounts.

157. Overtime spending is only one example of how executive and legislative branch political decisions drive prison debt for those having no control over those decisions. Another comes in the form of staffing levels and benefits.

158. At deposition, the Comptroller testified that labor costs account for seventy percent of the daily prison cost charged to incarcerated people.

159. And, to take but one example, the Comptroller's calculation of the fiscal year 2019 daily rate as 9.8% higher than the prior fiscal year's pinpointed "higher fringe benefit costs associated with S[tate] E[m]ployees R[etirement] S[y]stem Hazardous Duty retirement" as one of the two main drivers of the increase. Memorandum from Office of the Comptroller to the Department of Correction 2 (Aug. 10, 2020).¹⁸

160. Moreover, between 2008 and the beginning of 2020, Connecticut's prison population fell by 48%. But year after year, the DOC has kept the number of statutorily authorized correction employee positions roughly the same, decreasing them by just 12% over the same period. People incarcerated during those years are stuck with the bill for those decisions.

¹⁸ At deposition, the Comptroller explained that SERS hazardous duty program pertains to employees who work in jobs deemed dangerous, including correctional officers, and that increased cost of it likely meant that the state had decided—or was required—to contribute more towards the anticipated future retirement benefits of those employees.

L. The number of people imprisoned—and hence, the number of debtors who must share the daily cost of prison—is also controlled by the third parties who administer the criminal justice system in Connecticut.

161. Third parties, rather than prison debtors themselves, are also responsible for the second factor used to tot up the debts: the number of people in prison.

162. When those administering the criminal justice system in Connecticut—police, prosecutors, and judges—increase or decrease the number of people they charge with and sentence to imprisonment-bearing offenses, the assessed cost borne by every incarcerated person falls or rises proportionally.

163. For example, during the first year of the COVID pandemic, the criminal division of Connecticut’s Superior Court pushed off sentencings of convicted persons until 2021 and made unspoken adjustments to bail criteria that cut bond amounts and thus remanded far fewer people to pre-trial detention.

164. As a result, the number of people held in prison by Connecticut declined each month. People reaching the end of their sentences were released from prison, but convicted people and pretrial detainees stayed out. Over the course of calendar year 2020, the number of people held in prison fell by about half.

165. Those decisions by police, prosecutors, and judges—while unquestionably beneficial to the people who avoided the rampant COVID spread in Connecticut’s prisons—materially increased the carceral debt of each person who was imprisoned during that time. Even as the number of people in prison was *falling* by 50%, correction expenditures during that period *rose* by at least \$13 million.

166. That effect was not limited to the pandemic. For example, the Comptroller has explained that one of the two drivers of the 9.9% daily rate increase from fiscal years 2017 to

2018 was “a smaller inmate population.” Memorandum from the Office of the State Comptroller to the Department of Correction 2 (May 31, 2019).

167. And for fiscal year 2020, the comptroller calculated the assessed cost of incarceration at \$249 a day. That daily rate is 11.3% higher than fiscal year 2019—as a direct result of the “significant reduction” in the number of people in Connecticut’s prisons.

Memorandum from the Office of the State Comptroller to the Department of Correction 2 (Jan. 6, 2022).

168. Hence, although the challenged statutes obligate them to pay for it, Connecticut’s prison debtors have no control over the actions of those in the criminal justice system that drive their bills higher and higher.

M. The magnitude of each person’s prison debt.

169. The result of Connecticut’s having carte blanche to charge people for their own punishment is staggering.

170. For fiscal year 2015, the assessed cost is \$145 per day, or \$59,925 per year.

171. For fiscal year 2016, the assessed cost is \$181 per day, or \$66,065 per year.

172. For fiscal year 2017, the assessed cost is \$185 per day, or \$67,525 per year.

173. For fiscal year 2018, the assessed cost is \$204 per day, or \$74,460 per year.

174. For fiscal year 2019, the assessed cost is \$224 per day, or \$81,760 per year.

175. For fiscal year 2020, the assessed cost is \$249 per day, or \$90,885 per year.

176. For fiscal year 2021, DOC has announced an intention to charge \$323 per day, or \$117, 895 per year.

177. Connecticut has not yet calculated the assessed costs for fiscal years 2022, 2023, or 2024.

178. These numbers generate almost unthinkable indebtedness figures for each day of incarceration.

N. How Connecticut collects and uses prison debt.

179. With the efforts of the defendants, Connecticut has collected an average of \$5.8 million annually from prison debtors over the last five fiscal years.

180. The amount extracted from Connecticut's prison debtors does not go back into the prison system. Instead, it is funneled into the State's general fund, for use in the state government's annual operating expenditures.

181. In other words, the amounts clawed back from people like Ms. Beatty do not directly "pay" for their prison stays, and nonetheless represent a drop in the bucket for the state's multi-billion-dollar annual expenditures.

182. Defendant Gilman's department is integral to collecting prison debt.

183. For those in prison, Defendant Gilman is notified by Defendant Quiros whenever a person who is incarcerated has a significant sum of money transferred to their prison trust account.

184. After verifying the amount of a person's debt from Defendant Quiros, Defendant Gilman's department may immediately attempt collection, and even place a freeze on a person's prison trust account while it attempts to secure a court order forcing payment.

185. Defendant Gilman's agency also monitors actions in the Connecticut Superior and Probate Courts for lawsuits and inheritances against which to attempt collection.¹⁹

¹⁹ *Windfalls of former inmates targeted by Connecticut: Collections grew to \$5.1 million last year*, New Haven Register (Aug. 2, 2014) <https://www.nhregister.com/connecticut/article/Windfalls-of-former-inmates-targeted-by-11384579.php>.

186. Defendant Gilman’s department is informed by Connecticut Probate Court of decedents or estate beneficiaries who were incarcerated by DOC. Defendant Gilman’s department then checks with Defendant Quiros’s department to determine how much prison debt those people owe or owed.

187. Once Defendant Gilman’s department determines that a decedent or beneficiary owes prison debt, it files a notice of lien in Probate Court. The lien notices and proofs of claim that Defendant Gilman’s department are non-negotiable; they dictate a person “is liable” to Connecticut and demand that the executor or administrator of the estate pay.

188. In addition to using DAS as a collection agent, the DOC extracts prison debt from incarcerated and formerly incarcerated people by requesting that the Attorney General file debt collection actions in the state’s court system.

189. Quiros’s debt collections suits are not just trifling. Quiros can—at any time—request that the Attorney General sue an imprisoned debtor who has not yet finished their sentence for the anticipated costs of incarceration. And once Quiros transforms the state into a judgment creditor, Connecticut may execute on the judgment at any time in the future, as many times as it wishes, for the rest of the debtor’s life, with post-judgment interest. *See* Conn. Gen. Stat. § 52-350f.

190. By way of illustration, in 2019, the Attorney General filed a debt collection action against an incarcerated person for all future assessed costs of their imprisonment, securing a \$362,362 judgment. Judgment, *State v. Heard*, No. HHD-CV18-5051049-S (Conn. Super. Ct. Apr. 22, 2019). Having made Connecticut a judgment creditor of the incarcerated person, the state may now execute against the person’s assets again and again in the future on behalf of Defendant Quiros, even though the person is currently penniless, which is arbitrarily punitive.

191. For those whose offenses make them subject to liens on lawsuit proceeds, Defendant Quiros may also use prison debt to shield the Department of Correction from the financial consequences of its own wrongdoing.

192. For example, when Quiros or any other Department employee are sued for injuring an incarcerated person, Quiros may direct that prison debt be collected or held back from any recovery. *See, e.g., Williams v. Marinelli*, 987 F.3d 188, 194 (2d Cir. 2021) (recounting how the state indemnified the tortfeasor but held back \$142,430 of the judgment against him to pay the Department of Administrative Services for his prison debt); Memorandum in Opposition to Plaintiff’s Application for Prejudgment Remedy 5, *Baltas v. Frenis*, No. 3:18-cv-01168 (D. Conn. Nov. 13, 2018) (reciting the Attorney General’s Office’s contention that “the plaintiff owes the State of Connecticut for the costs of his incarceration and would need to recover at least half of \$722,906 at trial in order to receive any money from the State of Connecticut”), Am. Compl. ¶ 108 (describing defense counsel’s use of prison debt as leverage in settlement talks for civil rights claim).

193. The May 2022 amendments to the prison debt laws do not eliminate this practice. The plaintiff in *Baltas*, for example, is in the group of people from whom the state may still collect lawsuit proceeds under Conn. Gen. Stat. § 18-85b(a).

194. Hence, by virtue of its unconstitutional prison debt scheme, Connecticut is still able to give itself up to a 50% discount on the damages awards and settlement amounts that it pays on behalf of its tortfeasor employees, even those who commit serious civil rights violations.

O. The Plaintiffs’ count against the Defendants for violation of the Excessive Fines Clause.

195. The imposition and collection of carceral debt by Defendants is grossly disproportionate to the gravity of the offenses for which the Plaintiffs, and those similarly

situated in the Class, were convicted because the debt amounts depend on post-conviction occurrences, on the actions and decisions of third parties, and on future actions and decisions unknowable at the time of sentencing.

196. The Defendants' conduct in imposing the cost of incarceration against, and collecting it from, those it imprisons also offends the public policy of the United States in ways including, but not limited to:

- (a) Rendering illusory the concept of having paid one's debt to society fair and square by lawfully serving a prison sentence;
- (b) Disproportionally robbing wealth from people of color;
- (c) Actively impeding people from building wealth after lawfully completing incarceration;
- (d) Creating a wall against return to society for those leaving prison, and thus fostering a cycle of poverty that is difficult to escape;
- (e) Negating the effect of state and federal tort and constitutional mandates by substantially reducing any incentive to seek legal recompense for injuries; and
- (f) Reinforcing to state employees that they will be held harmless for breaking the law.

197. Thereby, the challenged statutes and regulations violate the Excessive Fines Clause. U.S. Const. amend. 8, cl. 3.

Prayer For Relief

Accordingly, the plaintiffs respectfully request entry of a judgment:

- (a) declaring that the Plaintiffs' prison debt is invalid, null, void and unenforceable;

- (b) declaring Conn. Gen. Stat. §§ 18-85a through -85c and their implementing regulations to be unconstitutional and void;
- (c) enjoining Defendant Gilman, and anyone working for or in concert with her or her successors, from enforcing the challenged statutes against the plaintiffs through any means, including but not limited to, her: collecting such debts, issuing any notice, demand, or lien for such debts, or, representing to any person or court that a debt imposed via the challenged statutes exists or is valid;
- (d) enjoining Defendant Quiros, and anyone working for him or in concert with him or his successors from enforcing the challenged statutes against the plaintiffs through any means, including but not limited to, his: calculating prison debt, directing Defendant Gilman or any other person or entity to collect such prison debt, or, representing to any person or court that a debt imposed via the challenged statutes exists or is valid;
- (e) ordering the Defendants to reimburse the Plaintiffs their reasonable litigation costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and
- (f) granting any other relief it deems just and proper.

Respectfully submitted,

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