

## **Baker Donelson's Kevin Garrison Helps Shut Down Alabama Debtors Prison**

**Kevin R. Garrison**

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(Birmingham, AL/July 13, 2012) Kevin R. Garrison of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, together with co-counsel William Dawson and Jim Pino, won a significant court order that at least temporarily brings an end to practices in an Alabama municipal court system that resulted in the creation and operation of a modern-day debtors prison.

In the matter *Dana Burdette et al v. Town of Harpersville et al*, Mr. Garrison served as pro bono counsel to the plaintiffs, four people formerly jailed by Harpersville who claimed the city fails to provide adequate counsel to indigent defendants, does not hold a hearing before imposing fines and sets "unreasonable bond amounts" for indigent people arrested by the city. The suit accused the city of automatically incarcerating indigent defendants for failure to pay fines and costs that, in many cases, were above the maximum allowed by law. These typically included additional "monitoring" fees charged by the private probation company with which Harpersville contracted to collect the fines.

In a scathing order, Judge Hub Harrington of the Circuit Court of Shelby County, Alabama, noted that the Harpersville Municipal Court system "could reasonably be characterized as the operation of a debtors prison," adding that "a more apt description . . . is that of a judicially sanctioned extortion racket."

Mr. Garrison said "Judge Harrington's ruling is a victory for all of us who appreciate the Constitution and an important check on the power of a city government that has been out of control for a long time. Our clients are only a few of those who have been routinely thrown in jail for having the misfortune of being unable to pay excessive fines related to minor violations such as speeding tickets. We're relieved that the court's order immediately stops Harpersville from continuing these practices and sets a hearing for further review of this matter."

As a result of the order, effective immediately, the City of Harpersville is temporarily enjoined from incarcerating anyone who is subject to post-conviction proceedings, has received a suspended sentence, or has been placed on probation in the Shelby County, Alabama, jail or the Shelby County Community Corrections Facility without first receiving permission from Judge Harrington. Harpersville transports its inmates to the Shelby County Jail because the city does not have its own jail.

The order also granted a motion by the plaintiffs to set a preliminary injunction hearing, which will be held on August 20, 2012. Judge Harrington has ordered that the mayor of Harpersville and every member of the Harpersville City Council be present at the hearing and "any and all subsequent hearings in this case until final resolution."

The order also requires Harpersville to provide the court with a list of all individuals who are currently being held by the city in any facility along with a copy of the related incarceration orders, and it is hoped that these individuals' cases will be examined to determine whether they have also been victims of the "repeated and ongoing violations of almost every safeguard afforded by the United States Constitution, the laws of the State of Alabama and the Rules of

Criminal Procedure" found by the court.

The Court's full order is available [here](#).

Once commonplace, debtors prisons have long been abolished, but as financially strapped municipalities look for new revenue sources during a prolonged economic downturn, the practices used by Harpersville are becoming a more frequent business model for municipal court systems. "This tough economic climate has put growing pressure on the courts to bring in money rather than protect the rights of citizens, resulting in the type of egregious Constitutional violations committed in Harpersville," said Lisa W. Borden, Baker Donelson's Pro Bono Shareholder. "We're extremely proud of Kevin and the work our Firm has done in this matter. We are hopeful that this result sends the message that local courts cannot exploit the poor in an effort to balance their cities' budgets, or for the profit of private corporations."

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