

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Twanda Marshinda Brown, <i>et al.</i> , Plaintiffs, v. Lexington County, South Carolina, <i>et al.</i> , Defendants.	Civil Action No. 3:17-cv-01426-MBS-SVH
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**DECLARATION OF XAVIER LARRY GOODWIN
IN SUPPORT OF PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Xavier Larry Goodwin, declare as follows:

1. I am indigent and homeless.
2. I am the principal provider for my family, which includes my wife and my two teenage daughters.
3. In February 2017, I was ticketed for driving under a suspended license, 3rd offense ("DUS-3") and arrested on a bench warrant for nonpayment of fines and fees. I was taken to the Lexington County Detention Center ("Detention Center") and booked in jail.
4. While in jail, I was taken to the bond court for a hearing. The judge presiding over the hearing did not inform me of my right to request the assistance of court-appointed counsel. The judge did not inform me of my right to seek a waiver of any public defender application fee. The judge did not appoint counsel to represent me.
5. I could not pay fines and fees that I owed to the Lexington County Central Traffic Court, so I remained incarcerated in the Detention Center for 63 days.

6. On April 4, 2017, I was transported to the Irmo Magistrate Court for a hearing on the DUS-3 citation. It was the only court hearing I was given related to the DUS-3 citation I received in February 2017.

7. During the April 4, 2017 hearing, I did not know, and the judge did not inform me, that I had the right to request the assistance of a court-appointed attorney before pleading guilty and that I had the right to seek a waiver of any fees related to the application for a public defender due to my financial hardship.

8. Without being informed of my rights and without the assistance of counsel, I pled guilty to the charge of DUS-3.

9. The judge sentenced me to 90 days in jail and the payment of \$2,100 in fines and fees. The judge gave me credit for jail time served.

10. The judge told me that I would be arrested and incarcerated if I did not return to the Irmo Magistrate Court within 30 days of my release from jail to set up a payment plan for the \$2,100 fine imposed as a result of the DUS-3 conviction. The judge did not ask me any questions about my financial circumstances or ability to pay \$2,100.

11. After I was released from the Detention Center, I was incarcerated in the Alvin S. Glenn Detention Center in Richland County.

12. I was released from the Alvin S. Glenn Detention Center on April 26, 2017.

13. After my release, it was very difficult to find a job that did not require me to drive, but allowed me to earn enough money to provide for myself and my family.

14. On May 5, 2017, I went to the Irmo Magistrate Court to establish a payment plan for the \$2,100 fine for DUS-3.

15. The court clerk at the payment window handed me a Scheduled Time Payment Agreement. The Agreement charged me a three percent collection fee. It also required me to make monthly payments of \$100 starting on June 5, 2017.

16. I explained to the court clerk that I had just been released from jail and that I did not have a job. The court clerk required me to sign the Scheduled Time Payment Agreement anyway, so I signed the Agreement.

17. In May 2017, I obtained a job as a heavy machine operator earning about \$280 per week.

18. Even with the money I earn at this job, I am still indigent and struggle to financially support myself and my family. My family and I do not have a home and we have great difficulty paying for basic necessities.

19. During my incarceration in 2017, I incurred significant debts that I am obligated to repay. Beyond just the fines and fees I owe to the Irmo Magistrate Court for the DUS-3 offense, I owe fines, fees, and court costs for additional traffic charges, and more than \$10,000 for past due child support.

20. Despite my best efforts, I am unable to pay according to the terms of the Scheduled Time Payment Agreement. I constantly fear that I will be arrested and incarcerated for failure to pay the fines and fees I owe to the Irmo Magistrate Court.

21. On June 1, 2017, I owed \$2,163 in fines and fees to the Irmo Magistrate Court.

22. I could not afford to pay the Irmo Magistrate Court the first installment payment of \$100, which was due on June 5, 2017, as required by the Scheduled Time Payment Agreement. I later paid \$100 to the Irmo Magistrate Court on June 23, 2017, but I was forced to neglect a child support payment I owed.

23. I also could not afford to pay \$100 by July 5, 2017, as required by the Scheduled Time Payment Agreement, because of my limited income and significant debts. I have still not been able to make this \$100 payment.

24. I know that I face an imminent and substantial risk that a bench warrant will be issued for my arrest and incarceration unless I pay \$2,063, which is the entire balance I owe for the DUS-3 offense.

25. I did not file an appeal to contest my DUS-3 conviction or sentence at any time before or after the April 14, 2017, deadline.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed in Columbia, South Carolina on this 8th day of September, 2017.

By: 
Xavier Larry Goodwin