UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Twanda Marshinda Brown, *et al.*, Plaintiffs, v. Lexington County, South Carolina, *et al.*, Defendants.	Civil Action No. 3:17-cv-01426-MBS-SVH

PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT

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I. INTRODUCTION

Plaintiffs Xavier Goodwin and Raymond Wright challenge the operation of a modern-day debtors' prison in Lexington County, South Carolina ("the County"). Each year, hundreds of indigent people are arrested and incarcerated in the County jail for weeks or months at a time simply because they lack the means to pay fines and fees imposed by the County's magistrate courts. These seizures are unreasonable and the subsequent confinements occur without pre-deprivation ability-to-pay hearings, notice of the right to request counsel, or assistance of court-appointed attorneys to help defend against incarceration. Such constitutional violations are a direct result of the policies, practices, customs, and standard operating procedures of Defendants Lexington County, Rebecca Adams, John Dooley, Bryan Koon, and Robert Madsen. On behalf of a proposed Class of similarly situated individuals, Mr. Goodwin and Mr. Wright request declaratory and injunctive relief under the Fourteenth, Sixth, and Fourth Amendments to the U.S. Constitution.

At the time they filed their respective claims, Mr. Goodwin and Mr. Wright owed magistrate court fines and fees they could not afford to pay and faced a substantial risk of arrest and incarceration without a pre-deprivation court hearing or representation by counsel. They each brought claims for prospective relief and, on either the same day or the following day, filed a motion seeking certification to pursue these claims on behalf of a class of similarly situated indigent people who cannot afford to pay fines and fees to magistrate courts in Lexington County. Shortly after filing his claims, Mr. Wright was unlawfully arrested and incarcerated. Mr. Goodwin continues to owe magistrate court fines and fees that he cannot pay, and he faces a threat of imminent arrest and incarceration in violation of his basic constitutional rights.

In their pre-discovery motion for partial summary judgment, Defendants seek dismissal

of Mr. Goodwin and Mr. Wright's declaratory and injunctive relief claims for two reasons. First, Defendants contend that Mr. Wright lacks standing to bring prospective relief claims and that those claims are moot following his arrest and incarceration for nonpayment of magistrate court fines and fees. Second, Defendants argue that this Court should refrain from exercising jurisdiction over Mr. Goodwin's prospective relief claims under the abstention doctrine set forth in *Younger v. Harris*, 401 U.S. 37 (1971), asserting that the relief sought would require this Court to interfere with an "ongoing" criminal proceeding against Mr. Goodwin in state court.

As a threshold matter, a judgment as a matter of law is entirely inappropriate at this stage of this case, where the parties have yet to conduct discovery. But even crediting the limited factual record at this stage of the litigation, Defendants' arguments for summary judgment on Plaintiffs' prospective relief claims fail as a matter of fact and law.

There is no dispute that Mr. Goodwin satisfies the requirements for standing to bring prospective relief claims. The undisputed record, moreover, establishes that Mr. Goodwin faced a threat of arrest and incarceration on the date he brought his claims. Mr. Goodwin therefore has standing to pursue his five claims for prospective relief—three of which are joined by Mr. Wright. Under well settled law, the fact that even one plaintiff survives Defendants' standing challenge settles the matter, and this Court need not address standing as to Mr. Wright. But even if this Court reaches that issue, it must conclude that Mr. Wright has standing to bring prospective relief claims. The undisputed record shows that on the day his claims were filed, Mr. Wright owed magistrate court fines and fees, could not afford to pay, and faced an imminent threat of arrest and incarceration for failure to pay without any pre-deprivation court hearing or representation by counsel.

The issue of mootness is addressed separately from standing, and Defendants concede

that Mr. Goodwin has live claims for prospective relief because he faces imminent arrest and incarceration for nonpayment of magistrate court fines and fees. Moreover, although Mr. Wright was arrested and incarcerated for nonpayment after filing his prospective relief claims, he is allowed to pursue prospective relief on behalf of the proposed Class under the *Gerstein* rule, a well-established exception to the mootness doctrine. This exception applies to this case. The claims challenging Defendants' post-conviction debt collection practices are so inherently transitory that it is uncertain whether this Court will have enough time to rule on a motion for class certification before a proposed representative's individual interest expires, yet, there is a constant class of persons suffering the deprivations complained of in this case. Indeed, although Mr. Goodwin has live claims for prospective relief today, he may be arrested and incarcerated before this Court resolves his pending motion for class certification, underscoring why the *Gerstein* rule applies to this case. Thus, both Mr. Goodwin and Mr. Wright's claims for declaratory and injunctive relief withstand Defendants' standing and mootness challenges.

The Court should exercise jurisdiction over Plaintiffs' prospective relief claims and reject Defendants' invocation of the *Younger* abstention doctrine. In making their argument, Defendants ignore the controlling Supreme Court precedent of *Sprint Communications, Inc. v. Jacobs*, 134 S. Ct. 584 (2013), and thereby mischaracterize the scope of the doctrine and its application to this case. In *Sprint*, the Supreme Court emphasized the obligation of federal courts to exercise the jurisdiction bestowed on them by Congress and narrowly confined *Younger* abstention to three "exceptional circumstances," none of which are present here. Contrary to Defendants' assertions, there is no parallel, "ongoing" criminal prosecution of Mr. Goodwin in state court; the undisputed record demonstrates that the Irmo Magistrate Court issued a final criminal judgment against Mr. Goodwin when it convicted and sentenced him months before the

commencement of this action. Defendants do not argue, much less show, that there is any "ongoing" state court proceeding against Mr. Wright that would warrant abstention as to his prospective relief claims. Relief in this case will not, as a practical matter, interfere with *any* ongoing proceeding in state court, much less one that falls within the "exceptional" circumstances recognized in *Sprint*. Although Mr. Goodwin continues to owe fines and fees to a magistrate court, the only process left is his imminent arrest and incarceration for nonpayment. The undisputed record thus shows that Mr. Goodwin was not afforded, and has no future opportunity to raise, constitutional challenges to his arrest and incarceration for nonpayment without a court hearing or representation by counsel in any state court proceeding. *Younger* abstention is therefore unwarranted in this case.

Accordingly, this Court should deny Defendants' motion for partial summary judgment, proceed to the resolution of Mr. Goodwin and Mr. Wright's pending motion for class certification, and permit this case to proceed to discovery.

II. STATEMENT OF FACTS

A. Defendants' policies and practices for collecting magistrate court fines and fees routinely result in the unconstitutional arrest and incarceration of indigent people.

Impoverished people are routinely arrested and incarcerated for their inability to pay fines and fees imposed in traffic and misdemeanor criminal cases by Lexington County magistrate courts, including the Lexington County Central Traffic Court ("Central Traffic Court") and the Irmo Magistrate Court. Each year hundreds, if not more than one thousand, of the poorest residents of the County and its surrounding areas are deprived of their liberty in the Lexington County Detention Center ("Detention Center") for weeks or months at a time for no reason other than their poverty and in violation of their most basic constitutional rights. *See* Dkt. No. 21–8 ¶¶ 13–19; Dkt. No. 21–5 ¶¶ 6–11; *see also* Dkt. No. 20 ¶¶ 409–14.

The Plaintiffs in this case are indigent people who were arrested and incarcerated in the Detention Center for periods of time ranging from seven to 63 days because they could not afford to pay fines and fees to Lexington County magistrate courts. Declaration of Xavier Larry Goodwin in Support of Pls.' Opp. to Defs.' Mot. for Partial Summ. J. (hereinafter "Goodwin Decl.") ¶ 5; Declaration of Raymond Wright, Jr. in Support of Pls.' Opp. to Defs.' Mot. for Partial Summ. J. (hereinafter " Wright Decl.") ¶ 14; Dkt. No. 29–2 ¶ 3.f-g. None of the Plaintiffs were provided a court hearing on their ability to pay or representation by court-appointed counsel before they were arrested and incarcerated for nonpayment. *See* Goodwin Decl. ¶¶ 6–10; Wright Decl. ¶¶ 8–12; Dkt. No. 20 ¶ 12.

B. Plaintiff Xavier Larry Goodwin.

Xavier Larry Goodwin is an indigent man and the principal provider for his family, which includes his wife and two teenage daughters. Goodwin Decl. ¶¶ 1–2. In February 2017, Mr. Goodwin was stopped and ticketed for driving under a suspended license, 3rd offense ("DUS-3"). *Id.* ¶ 3. Officers arrested Mr. Goodwin for failure to pay fines and fees to the Central Traffic Court and booked him in the Detention Center. *Id.* Although Mr. Goodwin was taken to bond court, the judge did not inform Mr. Goodwin of his right to request the assistance of court-appointed counsel, did not inform Mr. Goodwin of his right to seek waiver of any public defender application fee, and did not appoint counsel to represent Mr. Goodwin. *Id.* ¶ 4. Mr. Goodwin was incarcerated for 63 days in the Detention Center for nonpayment of Central Traffic Court fines and fees. *Id.* ¶ 5.

On April 4, 2017, Mr. Goodwin was transported to the Irmo Magistrate Court from jail for a hearing on the DUS-3 ticket he had received in February. Goodwin Decl. ¶ 6. Mr. Goodwin did not know, and the judge did not inform him, that he had the right to request the

assistance of a court-appointed attorney before pleading guilty and the right to seek a waiver of any fees related to the application for a public defender due to financial hardship. *Id.* ¶ 7. Without being informed of his rights and without the assistance of counsel, Mr. Goodwin pled guilty to the charge of DUS-3. *Id.* ¶ 8. The judge sentenced Mr. Goodwin to 90 days in jail and the payment of $2,100 in fines and fees, crediting the time Mr. Goodwin had already spent incarcerated in the Detention Center toward the jail portion of the sentence. *Id.* ¶ 9.

The judge instructed Mr. Goodwin to return to court to set up a payment plan within 30 days of his release from jail. Goodwin Decl. ¶ 10. The judge threatened to have Mr. Goodwin arrested and incarcerated if he failed to do so. *Id.* The judge did not ask Mr. Goodwin any questions about his financial circumstances or his ability to pay $2,100. *Id.*

After his release from the Detention Center, Mr. Goodwin served time in jail in Richland County. Goodwin Decl. ¶ 11. He was ultimately released on April 26, 2017. *Id.* ¶ 12. Thereafter, Mr. Goodwin struggled to find a job that did not require driving and to earn enough money to get himself and his family back on their feet. *Id.* ¶ 13.

On May 5, 2017, Mr. Goodwin went to the Irmo Magistrate Court to establish a payment plan for the $2,100 he owed in fines and fees for DUS-3. Goodwin Decl. ¶ 14. The court clerk at the payment window placed Mr. Goodwin on a Scheduled Time Payment Agreement that required him pay a three percent collection fee and to make monthly payments of $100 starting on June 5, 2017. *Id.* ¶ 15. Mr. Goodwin explained that he had just been released from jail and did not have a job. *Id.* ¶ 16. Nevertheless, the court clerk required him to sign the Scheduled Time Payment Agreement, and Mr. Goodwin did so. *Id.*

Mr. Goodwin eventually obtained a job as a heavy machine operator earning about $280 weekly. Goodwin Decl. ¶ 17. Even with this job, Mr. Goodwin remains indigent. *Id.* ¶ 18. He

and his family do not have a home and struggle financially to pay for basic necessities. *Id.* During his incarceration, Mr. Goodwin incurred significant debts that he is obligated to repay. *Id.* ¶ 19. On top of the fines and fees he owes to the Irmo Magistrate Court for the DUS-3 offense, Mr. Goodwin owes fines, fees, and court costs for additional traffic charges and more than $10,000 for past due child support. *Id.*

Despite his best efforts, Mr. Goodwin remains unable to pay according to the terms of the Scheduled Time Payment Agreement, and he constantly fears he will again be arrested and incarcerated. Goodwin Decl. ¶ 20. Mr. Goodwin could not afford to pay the first installment of $100 due to the Irmo Magistrate Court by June 5, 2017. *Id.* ¶ 22. He eventually made a late payment of $100 on June 23, 2017, only by prioritizing payment to the Irmo Magistrate Court over payment of child support. *Id.* Mr. Goodwin similarly could not afford to pay the court $100 by July 5, 2017, as required by the Scheduled Time Payment Agreement, because of his limited income and significant debts. *Id.* ¶ 23. He still has not been able to make this $100 payment. *Id.*

Mr. Goodwin currently faces an imminent and substantial risk that the Irmo Magistrate Court will issue a bench warrant ordering law enforcement officers to arrest and book him in the Detention Center unless he pays $2,063—the entire balance that owes the court in fines and fees for the DUS-3 offense. Goodwin Decl. ¶ 24.

C. Plaintiff Raymond Wright, Jr.

Raymond Wright, Jr., is an indigent and disabled man. Wright Decl. ¶ 1. On July 1, 2016, Mr. Wright was stopped and ticketed for driving under a suspended license, 1st offense ("DUS-1"). *Id.* ¶ 2. He appeared in the Central Traffic Court on July 26, 2016. *Id.* ¶ 3.

Without being informed of his rights and without the assistance of counsel, Mr. Wright pled guilty to DUS-1. *Id.* The judge sentenced him to pay $666.93 in fines and fees. *Id.* ¶ 3.

The judge asked Mr. Wright if he could pay in full that day. Wright Decl. ¶ 4. Mr. Wright explained that he could not afford to pay. *Id.* The judge required Mr. Wright to pay $50 per month toward the full amount due and informed Mr. Wright that if he did not make these payments, he would be jailed. *Id.* ¶ 5. The judge did not ask Mr. Wright any other questions about his ability to pay. *Id.* ¶ 4. At the time of the hearing, however, Mr. Wright received needs-based, means-tested public assistance in the form of food assistance through SNAP. *Id.*

Mr. Wright faced difficulty paying $50 each month to the Central Traffic Court. Wright Decl. ¶ 6. At the time, his wife was unemployed. *Id.* Mr. Wright's Social Security Disability Insurance income of $547 each month was the sole source of income for his family, which included his wife and two granddaughters. *Id.* With great effort, Mr. Wright made five payments of $50 to the Central Traffic Court, but could not afford to make further payments after December 7, 2016. *Id.* ¶ 7.

On April 19, 2017, Mr. Wright appeared before the Central Traffic Court for a show cause hearing. Wright Decl. ¶ 8. The judge did not inform Mr. Wright that he had the right to request the assistance of a court-appointed attorney and the right to seek waiver of any fees related to the application for a public defender due to financial hardship. *Id.* Nor did the judge engage in a colloquy with Mr. Wright to determine whether any waiver of the right to counsel was knowing, voluntary, and intelligent. *Id.*

Mr. Wright explained to the judge that he was not able to pay the fines and fees owed to the Central Traffic Court due to financial hardship. Wright Decl. ¶ 9. Mr. Wright also

explained that he needed to buy groceries to feed his family, had additional bills to pay, and owed taxes that he could not afford to pay. *Id.*

The judge informed Mr. Wright that he would be jailed if he did not pay the full $416.93 balance due to the Central Traffic Court within ten days. Wright Decl. ¶ 10. The judge did not ask Mr. Wright any questions about his financial circumstances or his ability to pay. *Id.* Although Mr. Wright brought documentation to demonstrate his inability to pay with him to court, the judge told Mr. Wright that he did not want to see any of the documents. *Id.* ¶ 11.

Mr. Wright asked whether he could make partial payments until he fully satisfied the outstanding fines and fees. Wright Decl. ¶ 12. The judge informed him that the court would only accept full payment of the amount owed. *Id.*

Despite his best efforts, Mr. Wright was unable to pay his balance of $416.93 to the Central Traffic Court by April 29, 2017, which was ten days after the show cause hearing. Wright Decl. ¶ 13.

D. The Filing of the Complaint, Amended Complaint, and Motions for Class Certification

On June 1, 2017, Mr. Goodwin and four other named Plaintiffs filed the original Class Action Complaint ("Complaint"). *See* Dkt. No.1. The following day, Mr. Goodwin filed the original motion for class certification. *See* Dkt. No. 5. The Complaint included prospective relief claims brought by Mr. Goodwin and damages claims brought by all five Plaintiffs. *See* Dkt. No. 1. As of the date the Complaint was filed, Mr. Goodwin owed $2,163 in fines and fees to the Irmo Magistrate Court and was required to pay $100 toward that debt each month. Goodwin Decl. ¶ 21. Because of his indigence, however, Mr. Goodwin was unable to pay the first installment of $100, which was due on June 5, 2017. *Id.* ¶ 22. Consequently, on June 1, 2017, Mr. Goodwin faced an imminent threat of arrest and incarceration for nonpayment of fines

and fees owed to the Irmo Magistrate Court. *Id.* ¶¶ 20–22.

On July 21, 2017, Plaintiffs filed their Class Action Amended Complaint ("Amended Complaint"), which added Mr. Wright's claims to this litigation, along with an amended motion for class certification. *See* Dkt. Nos. 20, 21. As of the date the Amended Complaint was filed, Mr. Wright was unable to pay the $416.93 in fines and fees that he owed the Central Traffic Court. Wright Decl. ¶¶ 13–14. Indeed, Mr. Wright was the subject of an active bench warrant from the Central Traffic Court ordering his arrest and incarceration for ten days unless he could pay $416.93 in full. Dkt. No. 29–2 ¶ 3.f. Thus, on July 21, 2017, Mr. Wright faced an imminent and substantial risk of arrest and incarceration because he could not afford to pay. *Id.*

In the Amended Complaint, Mr. Goodwin and Mr. Wright together bring three claims for declaratory and injunctive relief on behalf of themselves and members of the proposed Class: Claim 1 against certain Defendants for placing them at imminent risk of arrest and incarceration for nonpayment of fines and fees without any pre-deprivation court hearing on their ability to pay, despite prima facie evidence of their indigence, in violation of the Fourteenth Amendment, Dkt. No. 20 at ¶¶ 442–52; Claim 2 against certain Defendants for placing them at imminent risk of arrest and incarceration for nonpayment of fines and fees without the benefit of representation by court-appointed counsel in violation of the Sixth Amendment, *id.* at ¶¶ 453–68; Claim 3 against certain Defendants for placing them at imminent risk of arrest and incarceration under a bench warrant lacking legal authority or probable cause violation of the Fourth Amendment, *id.* at ¶¶ 469–76. Mr. Goodwin also brings two claims, on behalf of himself alone, against Defendant Adams for declaratory relief only. *Id.* at ¶¶ 508–15 (Claim 7 under the Fourteenth Amendment); *id.* ¶¶ 516–23 (Claim 8 under the Sixth Amendment).

E. The Arrest and Incarceration of Mr. Wright

On July 25, 2017, days after the filing of the Amended Complaint, Mr. Wright was arrested pursuant to a Central Traffic Court bench warrant for failure to pay, and was booked in the Detention Center. Wright Decl. ¶ 14; Dkt. No. 29–2 ¶ 3.f. He was incarcerated for seven days. Dkt. No. 29–2 ¶ 3.f.

III. AUTHORITY AND ARGUMENT

Mr. Goodwin and Mr. Wright's claims for declaratory and injunctive relief withstand Defendants' pre-discovery motion for partial summary judgment. As a threshold matter, summary judgment is granted prior to discovery in only the rarest cases. Here, Defendants seek a judgment as a matter of law, which would prevent this Court from resolving Mr. Goodwin and Mr. Wright's pending motion for class certification and effectively deny their prospective relief claims, based solely on the limited facts set forth in the declaration of Colleen Long. Plaintiffs have supplemented the record with additional facts that are material to the Court's resolution of the issues raised in Defendants' motion.[1] Summary judgment at this early stage of the proceedings is wholly unwarranted when viewing the entire factual record and drawing any inferences in the light most favorable to Plaintiffs as the non-moving parties, as this Court is required to do.[2]

The undisputed facts show that both Mr. Goodwin and Mr. Wright's prospective relief

[1] There is no evidence in the record at this early stage of the proceedings that would contest the facts set forth in the declarations of Xavier Larry Goodwin and Raymond Wright, Jr. *See* Dkt. No. 29–2. Plaintiffs do not take issue with the factual assertions set forth in Ms. Long's declaration. Rather, as set forth in more detail below, Defendants misconstrue those assertions as supporting judgment as a matter of law on standing, mootness and *Younger* abstention grounds. As a result, Plaintiffs have not submitted a statement of material facts in dispute under Local Rule 7.05(A)(4) at this time.

[2] Even if Defendants had raised the issues of standing, mootness, and *Younger* abstention through a motion to dismiss under Rule 12 of the Federal Rules of Civil Procedure, dismissal would be inappropriate for the reasons addressed below.

claims survive any challenge based on standing. Defendants do not contest Mr. Goodwin's ability to pursue prospective relief claims on standing grounds, and there is no dispute that Mr. Wright seeks the same prospective relief as Mr. Goodwin. Under well-established law, the standing of one plaintiff is enough and this Court need not address standing for Mr. Wright. But even if this Court were to do so, Mr. Wright has standing to seek prospective relief because on the day the Amended Complaint was filed, he could not afford to pay magistrate court fines and fees and faced an imminent threat of arrest and incarceration without any pre-deprivation court hearing or representation by counsel.

Nor is mootness a bar to this Court's adjudication of the prospective relief claims in this case. There is no dispute that Mr. Goodwin's claims for declaratory and injunctive relief remain live. Although Mr. Wright was arrested and jailed following the filing of his prospective relief claims, his claims fall under the *Gerstein* rule—a well-established exception to the mootness doctrine for class claims that are so inherently transitory that a court will not have enough time to rule on a motion for class certification before a proposed representative's individual interest expires. Thus, both Mr. Goodwin and Mr. Wright have standing to pursue prospective relief and present live claims for this Court to resolve.

Finally, this Court should squarely reject Defendants' request for summary judgment on the basis of *Younger* abstention. Defendants ignore the controlling Supreme Court precedent of *Sprint Communications, Inc. v. Jacobs*, 134 S. Ct. 584 (2013), which narrowly confined *Younger* abstention to three "exceptional circumstances," none of which are present in this case. The undisputed record shows there is no parallel, "ongoing" criminal prosecution of Mr. Goodwin because the Irmo Magistrate Court issued a final criminal judgment against him months before the commencement of this action. Defendants do not assert, much less show, that there is *any*

pending proceeding against Mr. Wright that would require this Court to decline to adjudicate his prospective relief claims. *Younger* abstention is therefore inappropriate because relief in this case will not, as a practical matter, interfere with any ongoing proceedings in state court that fall into the narrow categories recognized by *Sprint*.

Accordingly, the undisputed facts show that summary judgment is wholly unwarranted in this case. This Court should deny Defendants' motion for partial summary judgment, resolve Mr. Goodwin and Mr. Wright's pending motion for class certification, and permit this case to proceed to discovery.

A. Standard of Review

A court shall grant summary judgment pursuant to Federal Rule of Civil Procedure 56(a), if the moving party "show[s] that there is no genuine dispute as to any material fact" and that it "is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The evidence presents a genuine issue of material fact if "a reasonable jury could return a verdict for the non-moving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 248 (1986). Any inference drawn from the facts should be viewed in the light most favorable to the non-moving party. *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962).

The party seeking summary judgment bears the initial burden of demonstrating to the court that there is no genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Once the movant has made this showing, the non-moving party must demonstrate specific, material facts that give rise to a genuine issue. *Id.* at 324. A "mere scintilla" of evidence is insufficient to overcome summary judgment. *Anderson*, 477 U.S. at 252.

Granting summary judgment before discovery has begun is exceptionally rare. *See Anderson*, 477 U.S. at 250 n.5 ("Th[e] requirement [that the non-moving party set forth facts

showing a genuine issue for trial] . . . is qualified by Rule 56([d])'s provision that summary judgment be refused where the moving party has not had the opportunity to discover information that is essential to his opposition."). "Only in the rarest of cases may summary judgment be granted against a plaintiff who has not been afforded the opportunity to conduct discovery." *Hellstrom v. U.S. Dep't of Veterans Affairs*, 201 F.3d 94, 97 (2d Cir. 2000).[3]

B. Plaintiffs Goodwin and Wright satisfy the requirements for standing and present a live case and controversy.

Defendants challenge Plaintiffs' claims for declaratory and injunctive relief on standing and mootness grounds. Dkt. No. 29–1 at 4–6. But only two of the six Plaintiffs—Mr. Goodwin and Mr. Wright—seek such relief. *See* Dkt. No. 20 ¶¶ 17, 420, 443, 454, 470, 509, 517. Together, Mr. Goodwin and Mr. Wright bring three claims for prospective relief on behalf of themselves and the proposed Class, and seek identical relief for those claims. *See* Dkt. No. 20 ¶ 443 (Claim 1); *id.* ¶ 454 (Claim 2); *id.* ¶ 470 (Claim 3); *id.* at 116–17 (describing requested relief). Mr. Goodwin alone brings two declaratory relief claims. *Id.* ¶ 509 (Claim 7); *id.* ¶ 517 (Claim 8). For the reasons set forth below, both Mr. Goodwin and Mr. Wright satisfy the requirements for standing to bring these claims and present live cases and controversies.

1. Mr. Goodwin faced a real and immediate threat of injury at the time he filed his claims for declaratory and injunctive relief.

Once a court has determined that a single party has standing, it need not separately address standing for all parties. *See Horne v. Flores*, 557 U.S. 433, 445 (2009) ("[I]n all standing inquiries, the critical question is whether at least one petitioner has alleged such a personal stake in the outcome of the controversy as to warrant *his* invocation of federal-court jurisdiction.") (emphasis in original, internal quotation marks omitted); *Vill. of Arlington Heights*

[3] Should Defendants contest the facts set forth in the Goodwin and Wright Declarations, Plaintiffs reserve the right to submit an affidavit under Rule 56(d), Fed. R. Civ. P., to support the need for additional discovery.

v. Metropolitan Housing Dev. Corp., 429 U.S. 252, 264 & n.9 (1977) ("[W]e have at least one individual plaintiff who has demonstrated standing. . . . Because of the presence of this plaintiff, we need not consider whether the other individual and corporate plaintiffs have standing to maintain the suit."). This is particularly true when defendants challenge standing for parties that seek identical relief. *See Wikimedia Found. v. Nat'l Sec. Agency*, 857 F.3d 193, 216–17 (4th Cir. 2017) (recognizing that in *Horne*, 557 U.S. 433, and *Arlington Heights*, 429 U.S. 252, it was unnecessary for the Supreme Court to rule on standing for each challenged party because "each party for whom standing was at issue requested identical relief.").

"A party facing prospective injury [at the time the case is filed] has standing to sue where the threatened injury is real, immediate, and direct." *Davis v. Fed. Election Comm'n*, 554 U.S. 724, 734 (2008). It is well established that "[s]tanding is to be determined at the commencement of a lawsuit." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 570 n.5 (1992); *see also Pashby v. Delia*, 709 F.3d 307, 316 (4th Cir. 2013). Thus, in assessing whether a particular plaintiff has standing to sue, the court looks at the facts in existence at the time that plaintiff first filed a complaint asserting the claims at issue. *See Cty. of Riverside v. McLaughlin*, 500 U.S. 44, 51 (1991) (holding three plaintiffs added in second amended complaint had standing because they met standing requirements when that pleading was filed); *Pashby*, 709 F.3d at 316 (holding proper time for determining standing is "when [the plaintiff] files a complaint"); *Lynch v. Leis*, 382 F.3d 642, 647 (6th Cir. 2004) (holding plaintiff had standing when amended complaint added him to action); *see also Mink v. Suthers*, 482 F.3d 1244, 1253–54 (10th Cir. 2007) ("[S]tanding is determined at the time the action is brought and we generally look to when the complaint was first filed, not to subsequent events.").

Defendants omit Mr. Goodwin from their arguments on standing. *See* Dkt. No. 29–1 at

4–6. In doing so, Defendants concede that Mr. Goodwin, who continues to owe fines and fees imposed by a Lexington County magistrate court, possesses standing to seek declaratory and injunctive relief. *Id.*

The undisputed record, moreover, shows that Mr. Goodwin had standing to bring prospective relief claims on June 1, 2017, when he filed the original Complaint asserting those claims. *See* Dkt. No. 1. On that date, Mr. Goodwin owed $2,163 in fines and fees to the Irmo Magistrate Court, was required to pay $100 each month, and could not afford to pay even the first installment due on June 5, 2017 because of his indigence. Goodwin Decl. ¶¶ 15–16, 21–22. Consequently, when the Complaint was filed, Mr. Goodwin faced a direct and imminent threat of arrest and incarceration for nonpayment of magistrate court fines and fees, without any pre-deprivation court hearing on his ability to pay, without the benefit of representation by court-appointed counsel, and based on a warrant unsupported by probable cause of criminal activity in violation of his constitutional rights.[4] Mr. Goodwin therefore clearly has standing to pursue the three claims for prospective relief that he brings with Mr. Wright, as well as the two claims for prospective relief that he brings on his own. *See* Dkt. No. 20 ¶¶ 443, 454, 470 (Claims 1, 2 and 3 by Mr. Goodwin and Mr. Wright); *id.* ¶¶ 509, 517 (Claims 7 and 8 by Mr. Goodwin alone).

The fact that Mr. Goodwin has standing to bring prospective relief claims, as Defendants concede, is sufficient to resolve the issue of standing entirely. Mr. Wright's claims for declaratory and injunctive relief are identical to three of Mr. Goodwin's claims, and this Court need not even reach the question of whether Mr. Wright has standing. *See Wikimedia Found.*, 857 F.3d at 216–17 (recognizing that when a court has found one plaintiff to have standing, it need not address standing for other plaintiffs seeking identical relief); *Crawford v. Marion Cty.*

[4] Even when the Amended Complaint was filed on July 21, 2017, Mr. Goodwin remained indigent and faced an immediate threat of arrest and incarceration because he could not afford, and thus failed to pay, the $100 payment due to the Irmo Magistrate Court on July 5, 2017. *See* Goodwin Decl. ¶¶ 21–23.

Elec. Bd., 553 U.S. 181, 189 n.7 (2008) ("We . . . agree with the unanimous view of [the Seventh Circuit] that [some of the petitioners] have standing . . . and that there is no need to decide whether the other petitioners also have standing."). Nevertheless, as set forth below, Plaintiffs wholly dispute Defendants' contention that Mr. Wright lacks standing.

2. Mr. Wright faced a real and immediate threat of injury at the time he filed his claims for declaratory and injunctive relief.

Although this Court need not reach the issue of whether Mr. Wright had standing to pursue prospective relief, the undisputed record establishes that he does. Plaintiffs filed their Amended Complaint on July 21, 2017, adding Mr. Wright's prospective relief claims to this litigation. *See* Dkt. No. 20. On that date, Mr. Wright owed $416.93 in fines and fees to the Central Traffic Court that he could not afford to pay, and he faced a Central Traffic Court bench warrant that ordered law enforcement officers to arrest and incarcerate him for ten days if he did not pay the amount due in full. Wright Decl. ¶¶ 13–14; Dkt. No. 29–2 ¶ 3.f. Thus, at the commencement of his prospective relief claims, Mr. Wright faced a real and immediate threat of being arrested and jailed without a pre-deprivation court hearing on his ability to pay, without representation by court-appointed counsel, and based on a warrant unsupported by probable cause of criminal activity in violation of his constitutional rights, a threat caused by Defendants' actions and redressable by a favorable decision from this Court.

Defendants incorrectly argue that Mr. Wright lacks standing because he was ultimately arrested and incarcerated for nonpayment of his debt to the Central Traffic Court. *See* Dkt. No. 29-1 at 5. But this fact is inapposite. Mr. Wright's arrest and incarceration occurred after the

filing of the Amended Complaint.[5] Binding authority requires this Court to determine Mr. Wright's standing as of July 21, 2017—the date on which he commenced his claims—and not August 18, 2017, the date on which Defendants filed their motion for partial summary judgment. *See Cty. of Riverside*, 500 U.S. at 51; *Pashby*, 709 F.3d at 316. There is no dispute that on July 21, 2017, Mr. Wright faced imminent arrest and incarceration for unpaid fines and fees owed to the Central Traffic Court. *See* Dkt. No. 29–2 ¶ 3.f.

Defendants mistakenly rely on *O'Shea v. Littleton*, 414 U.S. 488 (1974), to argue that Mr. Wright's standing to pursue prospective relief is premised on a speculative claim that he will reoffend in the future and again owe court fines and fees he cannot afford to pay. *See* Dkt. No. 29-1 at 5. *O'Shea* has no bearing on this case, however, because Mr. Wright makes no such argument. As discussed above, Mr. Wright's standing to sue for prospective relief is based on the real and immediate threat of unlawful arrest and incarceration for unpaid court fines and fees—a threat that he faced on the date the Amended Complaint was filed. In contrast, the named plaintiffs in *O'Shea* lacked standing to bring prospective relief claims challenging unconstitutional bond setting, sentencing, and jury fee practices because none of them alleged in the complaint that they had personally suffered from these practices or were currently "serving an allegedly illegal sentence or were on trial or awaiting trial." *Id*. 495–96. Thus, Mr. Wright's claims of imminent arrest and incarceration—injuries that he in fact came to suffer just days after the Amended Complaint was filed—are wholly distinguishable from the *O'Shea* plaintiffs' "speculative" allegations of future injury based on the alleged "likelihood that [they would] again be arrested for and charged with violations of the criminal law . . . ." *Id.* at 495–96.

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[5] The Amended Complaint was filed on July 21, 2017. Dkt. No. 20. Mr. Wright was arrested and incarcerated four days later, on July 25, 2017, pursuant to the Central Traffic Court bench warrant. Dkt. No. 29–2 ¶ 3.f. Mr. Wright was incarcerated in the Detention Center for seven days and released on August 1, 2017. *Id*. Defendants filed their Motion for Summary Judgment on Declaratory and Injunctive Relief Claims on August 18, 2017. Dkt. No. 29.

The undisputed record demonstrates that Mr. Wright, like Mr. Goodwin, faced the threat of a real, immediate, and direct violation of his constitutional rights when he commenced his claims for prospective relief. Thus, although this Court need not reach this question, Mr. Wright has standing to assert claims for declaratory and injunctive relief.

3. Mr. Goodwin's declaratory and injunctive relief claims are not moot.

The question of standing focuses on whether a plaintiff has suffered an injury in fact or is in immediate danger of suffering such an injury at the time the complaint is filed. *See Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 184 (2000). The question of mootness, on the other hand, focuses on whether events subsequent to the filing of the suit have eliminated the controversy between the parties. *Id.* at 189. A claim for declaratory or injunctive relief becomes moot "when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Stop Reckless Econ. Instability Caused by Democrats v. Fed. Election Comm'n*, 814 F.3d 221, 229 (4th Cir. 2016) (quoting *Chafin v. Chafin*, 568 U.S. 165, 172 (2013)), *cert. denied*, 137 S. Ct. 374 (2016).

Defendants concede that Mr. Goodwin has live claims and controversies for declaratory and injunctive relief. Dkt. No. 29-1 at 6. Furthermore, the undisputed record shows that Mr. Goodwin continues to face imminent arrest and incarceration because he cannot afford to pay debts owed to the Irmo Magistrate Court. Goodwin Decl. ¶¶ 20–24; Dkt. No. 29-2 ¶ 3.g. Thus, Mr. Goodwin's claims for declaratory and injunctive relief are not moot, and this Court may proceed to resolving the pending motion for class certification on this basis alone.

4. Mr. Wright is allowed to pursue claims for injunctive and declaratory relief on behalf of the proposed Class under the *Gerstein* rule.

As demonstrated above, Mr. Wright has standing to pursue injunctive and declaratory relief claims because he faced an imminent threat of arrest and incarceration for nonpayment of

fines and fees at the time Plaintiffs filed their Amended Complaint and amended motion for class certification. Mr. Wright's individual claims for prospective relief have since become moot, however, because he no longer owes fines and fees to a Lexington County magistrate court following his arrest and incarceration for nonpayment. Dkt. No. 29-2 ¶ 3.f. Mr. Wright may nevertheless pursue claims for prospective relief on behalf of the proposed Class under a well-established exception to the mootness doctrine known as the *Gerstein* rule.

The Supreme Court recognized in *Gerstein v. Pugh*, 420 U.S. 103 (1975), that some "claims are so inherently transitory that the trial court will not have even enough time to rule on a motion for class certification before the proposed representative's individual interest expires." *Cty. of Riverside*, 500 U.S. at 52 (discussing *Gerstein*, 420 U.S. at 110 n.11); *see United States v. Sanchez-Gomez*, 859 F.3d 649, 671 (9th Cir. 2017) (describing this exception to the mootness doctrine as the "*Gerstein* rule"). "Under these circumstances, a judicial decision to certify a class after the named representative's individual claim is moot may relate back to the time the named representative filed the class-action complaint, and the action will not be moot so long as members of the class continue to have a live controversy." *Sanchez-Gomez*, 859 F.3d at 671 (citing *Gerstein*, 420 U.S. at 110 n.11); *see also Cty. of Riverside*, 500 U.S. at 52 (holding that in cases involving inherently transitory claims, "the 'relation back' doctrine is properly invoked to preserve the merits of the case for judicial resolution").

The *Gerstein* rule applies if "(1) it is uncertain that a claim will remain live for any individual who could be named as a plaintiff long enough for a court to certify the class; and (2) there will be a constant class of persons suffering the deprivation complained of in the complaint." *Olson v. Brown*, 594 F.3d 577, 582 (7th Cir. 2010) (citing *Gerstein*, 420 U.S. at 110 n.11, and other cases); *see also Wilson v. Gordon*, 822 F.3d 934, 945 (6th Cir. 2016) ("Courts

have distilled from *Gerstein* two requirements for the 'inherently transitory' exception to apply."). Both requirements are met in this case. Indeed, the leading treatise on class actions recognizes that the *Gerstein* exception "is particularly common in the area of criminal justice class actions due to the inherently transient nature of many trials, jail terms, and prison sentences." William B. Rubenstein, *Newberg on Class Actions* ("*Newberg*") § 2:13 (5th ed. June 2017 Update).

The first requirement—uncertainty as to the length of time any given claim will remain live—is established by Defendants' own evidence. According to Colleen Long, the Deputy Court Administrator for the Lexington County Summary Court, every Plaintiff in this lawsuit other than Xavier Goodwin was recently arrested for nonpayment of fines and fees imposed by Lexington County magistrate courts, but the length of time between arrest and release was often less than one month and never exceeded two months. Dkt. No. 29–2 ¶ 3.[6] Indeed, for Mr. Wright the duration between arrest and release was a single week. *Id.* ¶ 3.f. This resulted in his claims being mooted only eleven days after they were filed. *Compare* Dkt. No. 20 (showing Amended Complaint was filed on July 21, 2017 and included Mr. Wright's claims), *with* Dkt. No. 29–2 ¶ 3.f (showing Mr. Wright was released from Detention Center on August 1, 2017 following incarceration for nonpayment of $416.93).

The period of time during which claims were live for Mr. Wright, and are live for members of the proposed Class, are far shorter than those found to satisfy the uncertainty prong of the *Gerstein* rule in other cases. In *Olson v. Brown*, for example, the named plaintiff was incarcerated for 139 days, which happened to be the average length of stay for all other inmates

[6] It is unclear why Ms. Long fails to identify Mr. Goodwin's own recent incarceration. From February to April 2017, Mr. Goodwin was jailed for 63 days in the Detention Center for nonpayment of fines and fees imposed by the Central Traffic Court. Goodwin Decl. ¶ 5. Those unpaid fines and fees were separate from the fines and fees Mr. Goodwin currently owes to the Irmo Magistrate Court. *Id.* ¶¶ 5, 10, 16, 20.

in the proposed class. 594 F.3d at 579. Similarly, in *Zurak v. Regan* every plaintiff served a sentence of ninety days or more, and the named plaintiffs had all been released at the time the district court ruled on class certification. 550 F.2d 86, 90 (2d Cir. 1977). On appeal, the Second Circuit reasoned that the mootness exception for inherently transitory claims applied because "the relatively short periods of incarceration involved and the possibility of conditional release [created] a significant possibility that any single named plaintiff would be released prior to certification . . . ." *Id.* at 91–92.

Moreover, courts have noted that "[a]n individual incarcerated in a county jail may be released for a number of reasons he cannot anticipate," and "[t]his uncertainty is precisely what makes the 'inherently transitory' exception applicable in [such] case[s]." *Olson*, 594 F.3d at 583; *see also Wilson*, 822 F.3d at 946 ("the essence of the exception is uncertainty about whether a claim will remain alive for any given plaintiff long enough for a district court to certify the class") (quoting *Olson*, 594 F.3d at 582). Even where the proposed class may include individuals "whose claims will not expire within the time it would take to litigate their claims," the *Gerstein* rule will apply if "there is no way for plaintiffs to ensure that the Named Plaintiffs will be those individuals." *Thorpe v. Dist. of Columbia*, 916 F. Supp. 2d 65, 67 (D.D.C. 2013) (citing *Olson*, 594 F.3 at 582); *see also Amador v. Andrews*, 655 F.3d 89, 100–101 (2d Cir. 2011) (applying the exception for "inherently transitory" claims even where some inmates may remain incarcerated "long enough for courts to adjudicate their claims"). Simply put, there is no "bright-line rule" that prevents a court from applying the *Gerstein* rule to a claim that may be alive beyond a given number of days. *Olson*, 594 F.3d at 582–83.

The second requirement of the *Gerstein* rule—"a constant class of persons suffering the deprivation complained of in the complaint"—is also satisfied in this case. *Olson*, 594 F.3d at

582. All Mr. Wright must show to satisfy this prong "is that the claim is likely to recur with regard to the class, not that the claim is likely to recur with regard to him." *Id.* at 584. The likelihood that the constitutional violations complained of will continue to impact indigent persons is not reasonably in dispute. Each year, the Lexington County magistrate courts issue more than one thousand bench warrants ordering the arrest and incarceration of people for nonpayment of fines and fees. Dkt. No. 21–8 ¶ 19. And on any given day, scores of people are sitting in the Detention Center solely because they failed to pay those fines and fees. Dkt. No. 21–5 ¶¶ 6–11. Plaintiffs allege that many of these people are indigent, and all are arrested and incarcerated without pre-deprivation court hearings concerning their ability to pay and without representation by court-appointed counsel. Dkt. No. 20 ¶¶ 10, 12, 114, 424. The likelihood that constitutional violations will recur is underscored by the fact that Mr. Goodwin was previously incarcerated because he could not afford to pay money owed to the Central Traffic Court, and now faces imminent arrest and incarceration for fines and fees owed to the Irmo Magistrate Court. Goodwin Decl. ¶¶ 3, 5, 20, 24. Thus, the claims at issue are inherently transitory.

Mr. Goodwin's situation further calls for the application of the *Gerstein* rule to this case. Today Mr. Goodwin has live claims for prospective relief because he faces a threat of imminent arrest and incarceration for nonpayment of magistrate court fines and fees. But Mr. Goodwin may be arrested and incarcerated before this Court rules on his pending motion for class certification, which would moot his individual claims for prospective relief and place him in a situation similar to that of Mr. Wright.

The prospective relief claims in this case thus fall squarely within the *Gerstein* rule, and the Court has jurisdiction to certify the class and proceed to the merits even though Mr. Wright's individual claims for prospective relief became moot after he filed for class certification. *See*

Cty. of Riverside, 500 U.S. at 51–52 ("That the class was not certified until after the named plaintiffs' claims had become moot does not deprive us of jurisdiction."); *Haro v. Sebelius*, 747 F.3d 1099, 1110 (9th Cir. 2014) (action not moot even though plaintiff's individual interest in injunctive relief expired before court could certify class). Indeed, "strict application of [the mootness] principle would undermine one of the central purposes of the class action device," which is to allow courts to adjudicate common, repetitive claims of a short duration. *Newberg* § 2:13.

Accordingly, the Court should reject Defendants' request for partial summary judgment on standing and mootness grounds and should proceed to resolve Mr. Goodwin and Mr. Wright's motion for class certification.

C. Plaintiffs' prospective relief claims are not barred by the *Younger* abstention doctrine.

Although they do not challenge Mr. Goodwin's claims for declaratory and injunctive relief on standing or mootness grounds, Defendants nevertheless ask this Court to decline to exercise jurisdiction over his claims under the doctrine of federal court abstention set forth in *Younger v. Harris*, 401 U.S. 37 (1971). Defendants argue that federal court relief for Mr. Goodwin's claims would interfere with a state court criminal proceeding that purportedly remains "ongoing" because he owes fines and fees to the Irmo Magistrate Court. Dkt. No. 29-1 at 6.

This Court should squarely reject Defendants' invocation of *Younger* abstention. Defendants mischaracterize the scope of the doctrine and incorrectly apply it to this case. In particular, Defendants ignore *Sprint Communications, Inc. v. Jacobs*, 134 S. Ct. 584 (2013), the Supreme Court's most recent decision addressing *Younger* abstention. There, the Supreme Court emphasized the "virtually unflagging" obligation of federal courts to exercise the jurisdiction

bestowed upon them by Congress. *Sprint*, 134 S. Ct. at 591 (quoting *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976)). With this obligation in mind, the Court narrowly confined *Younger* abstention to three "exceptional circumstances," none of which are present in this case. Defendants make no argument that *Younger* abstention applies to Mr. Wright's claims for prospective relief, much less prove the existence of any pending state court proceeding against him that falls within the narrow categories recognized in *Sprint*. Moreover, contrary to Defendants' assertions, there is no "ongoing" criminal proceeding against Mr. Goodwin in the Irmo Magistrate Court, much less one in which he could raise the serious constitutional claims brought in this case. It is undisputed that Mr. Goodwin's criminal prosecution concluded with his conviction and sentence months before the commencement of this action. That final criminal judgment was not appealed, and there is therefore no "ongoing" state court criminal proceeding of any kind to which this Court should defer.

The prerequisite for *Younger* abstention is therefore not met in this case. Because there is no ongoing state court proceeding of any of the specific types identified in *Sprint*, federal court relief in this case will not result in any duplicative legal proceedings or frustrate the state court's administration of criminal justice. Finally, the undisputed record shows that Mr. Goodwin has not been, and will not be, afforded any opportunity to raise constitutional challenges to his arrest and incarceration in state court—a factor this Court should consider and one that weighs strongly against *Younger* abstention. This Court should therefore exercise jurisdiction over Mr. Goodwin and Mr. Wright's claims for declaratory and injunctive relief.

1. *Sprint* limited the application of *Younger* abstention to three "exceptional" circumstances.

In its most recent discussion of the *Younger* abstention doctrine, the Supreme Court emphasized that "[f]ederal courts, it was early and famously said, have no more right to decline

the exercise of jurisdiction which is given, than to usurp that which is not given." *Sprint*, 134 S. Ct. at 590 (citing *Cohens v. Virginia*, 6 Wheat, 264, 404, 5 L.Ed. 257(1821)). The Supreme Court recognized that lower courts had improperly extended the *Younger* abstention doctrine based on a misinterpretation of *Middlesex County Ethics Committee v. Garden State Bar Association*, 457 U.S. 423 (1982). Specifically, the Supreme Court reversed a federal appellate court decision that had read *Middlesex* to require *Younger* abstention whenever: "[t]here is (1) an ongoing state judicial proceeding, which (2) implicates important state interests, and (3) . . . provide[s] an adequate opportunity to raise [federal] challenges." *Sprint*, 134 S.Ct. at 593 (discussing lower court opinion's treatment of *Middlesex*, 457 U.S. at 438) (internal quotation marks omitted). The Supreme Court cautioned that applying *Middlesex* in this fashion would extend *Younger* "to <u>virtually all</u> parallel state and federal proceedings," an outcome "irreconcilable" with the overarching principle "that, even in the presence of parallel state proceedings, <u>abstention from the exercise of federal jurisdiction is the 'exception, not the rule</u>.'" *Id*. (quoting *Hawaii Housing Authority v. Midkiff*, 467 U.S. 229, 236 (1984)) (emphasis supplied).

The Supreme Court in *Sprint* strictly limited when a federal court may use the *Younger* abstention doctrine to "refus[e] to decide a case in deference to the States." *Sprint*, 134 S. Ct. at 591–94. It held that "*Younger* extends to the three 'exceptional circumstances'" identified in *New Orleans Public Service, Inc. v. Council of New Orleans*, 491 U.S. 350 (1989), "but no further." *Sprint*, 134 S. Ct. at 593–94. Those three exceptions are: (1) "ongoing state criminal prosecutions," (2) "certain civil enforcement proceedings," and (3) "pending civil proceedings involving certain orders that are uniquely in furtherance of the state court's ability to perform their judicial functions." *Id.* at 591 (citing *New Orleans Public Service, Inc.*, 491 U.S. at 368)

(internal quotation marks and citations omitted). These three "exceptional categories . . . define *Younger*'s scope." *Id*. The Supreme Court also clarified that the *Middlesex* factors are "not dispositive" of whether a federal court should abstain from adjudicating a claim under *Younger*. *Sprint*, 124 S. Ct. at 593. Rather, the *Middlesex* factors are simply "additional factors appropriately considered by the federal court before invoking *Younger*." *Id.* (emphasis in original).

Defendants argue "that the DUS, 3rd offense, proceeding against Plaintiff [Goodwin] is still ongoing, because the sentence has not yet been satisfied" due to his nonpayment of fines and fees. *Id*. at 7. But Defendants do not address, much less show that this situation implicates any of *Sprint*'s three exceptional circumstances.

2. The "exceptional circumstances" identified in *Sprint* do not apply here.

A court's decision to abstain under *Younger* must be separately justified with respect to each plaintiff. *See Doran v. Salem Inn, Inc.*, 422 U.S. 922, 928–31 (1975) (refusing to apply *Younger* to the claims of two plaintiffs who were not subject to ongoing criminal proceedings simply because their co-plaintiff was); *id*. at 928 ("[A]ll three plaintiffs should [not] automatically be thrown into the same hopper for Younger purposes"). "[T]he date for determining whether *Younger* applies is the date the federal action is filed." *ReadyLink Healthcare, Inc. v. State Comp. Ins. Fund*, 754 F.3d 754, 759 (9th Cir. 2014).[7] *Younger* abstention may also apply "where state criminal proceedings are begun against the federal plaintiff[] after the federal complaint is filed but before any proceedings of substance on the merits have taken place in the federal court." *Hicks v. Miranda*, 422 U.S. 332, 349 (1975).

[7] *See also Tony Alamo Christian Ministries v. Selig*, 664 F.3d 1245, 1250 (8th Cir. 2012) ("For purposes of applying Younger abstention, the relevant time for determining if there are ongoing state proceedings is when the federal complaint is filed."); *Liedel v. Juvenile Court of Madison County, Ala.*, 891 F.2d 1542, 1546 n.6 (11th Cir. 1990) (same); *Zalman v. Armstrong*, 802 F.2d 199, 204 (6th Cir. 1986) (same)

Younger abstention is "clearly erroneous," however, when a plaintiff "has already been tried and convicted . . . and none of the parties suggests that any charges remain pending against him." *Abusaid v. Hillsborough Cty. Bd. of Cty. Comm'rs*, 405 F.3d 1298, 1315 (11th Cir. 2005).

Defendants cannot throw Mr. Wright and Mr. Goodwin "into the same hopper for Younger purposes." *Doran*, 422 U.S. at 929. But Defendants fail to assert that *Younger* abstention even applies to Mr. Wright's claims for prospective relief, much less point to undisputed facts demonstrating the existence of *any* pending state court proceeding against Mr. Wright that falls within the "exceptional circumstances" identified in *Sprint*. Dkt. No. 29–1 at 6–7. Mr. Wright has live claims for declaratory and injunctive relief on behalf of the proposed Class, and this Court is obligated to exercise jurisdiction over these claims. *See discussion supra* Section B; *Sprint*, 134 S. Ct. at 593–94 (emphasizing that *Younger* extends to three exceptional circumstances, "but no further").[8]

Additionally, Defendants' assertions that a criminal proceeding remains "ongoing" against Mr. Goodwin fail to show that this case falls within any of the *Sprint* "exceptional" circumstances. *See* Dkt. No. 29–1 at 6–7.[9] Here, the undisputed record demonstrates that the first *Sprint* category does not apply because there was no "ongoing state criminal prosecution" against Mr. Goodwin at the time the Complaint was filed, and there are none today. The Irmo Magistrate Court convicted and sentenced Mr. Goodwin for DUS-3 on April 4, 2017. Dkt. No.

[8] It is undisputed that there is currently no ongoing criminal prosecution of Mr. Wright in any Lexington County magistrate court and no ongoing effort to collect from him fines and fees owed to any Lexington County magistrate court. Dkt. 29–2 at ¶ 3.f.

[9] Defendants do not contend or identify undisputed facts showing that Mr. Goodwin's prospective relief claims implicate the second or third "exceptional" categories identified in *Sprint*, which narrowly concern only ongoing quasi-criminal civil enforcement proceedings or ongoing civil proceedings involving court orders "uniquely in furtherance of the state courts' ability to perform their judicial functions." *Sprint*, 134 S.Ct. at 591–92; *see* Dkt. No. 29–1 at 6–7 (arguing that a "state criminal case remains ongoing" and that a "DUS, 3rd offense, proceeding . . . [is] still ongoing").

29–2 ¶ 3.g. The time for appealing the conviction and sentence expired on April 14, 2017. *See* S.C. Code § 18-3-30 (requiring appeal from magistrate court criminal judgment to be filed "within ten days after the sentence").[10] No such appeal was filed. Goodwin Decl. ¶ 25. Thus, by the time the Complaint was filed on June 1, 2017, Mr. Goodwin's conviction and sentence for DUS-3 were final, and there was no "ongoing" criminal prosecution against Mr. Goodwin in the Irmo Magistrate Court or any state appellate court. It is undisputed, moreover, that Mr. Goodwin is not awaiting trial now on any other criminal charges in any Lexington County magistrate court. *Younger* abstention is "clearly erroneous" in this context. *Abusaid*, 405 F.3d at 1315; *see also Trombley v. Cty. of Cascade, Mont.*, 879 F.2d 866 (9th Cir. 1989) (unpublished opinion) (finding no ongoing proceeding when plaintiff "has pleaded guilty and is currently out on parole"); *Moncier v. Jones*, No. 3:11-CV-301, 2012 WL 262984, at *5 (E.D. Tenn. Jan. 30, 2012) (explaining that a proceeding is "pending" from "the time of the filing . . . until a litigant has exhausted his state appellate remedies"); *cf. Mercer v. Stirling*, No. 0:14-CV-2607-RBH, 2015 WL 1280618, at *4 (D.S.C. Mar. 20, 2015) (finding criminal proceeding still pending because criminal defendant had not yet been sentenced).

The fact that Mr. Goodwin owed fines and fees to the Irmo Magistrate Court at the time the Complaint was filed and that he presently remains unable to pay does not mean that any state proceeding falling within the narrow confines of *Sprint* was "ongoing" at the time the Complaint was filed or remains "ongoing" today. Defendants' argument to the contrary is inconsistent with the conclusion of numerous courts that post-conviction debt collection practices, such as those alleged in this case, are <u>not</u> the type of ongoing state court proceedings that allow for abstention

[10] Similarly, Mr. Wright was convicted and sentenced by the Central Traffic Court for DUS-1 on July 26, 2016. Dkt. No. 29–2 ¶ 3.f. The time for any appeal ran on August 5, 2016. *See* S.C. Code § 18-3-30. At the time of the filing of the Amended Complaint, Mr. Wright was not subjected to any "ongoing" criminal prosecution. He merely owed money to the Central Traffic Court for a criminal prosecution which had long since concluded.

under *Younger*. *See, e.g.*, *Cain v. City of New Orleans*, 186 F. Supp. 3d 536, 550 (E.D. La. 2016) ("Because the mere existence of plaintiffs' undischarged debts does not constitute an 'ongoing state judicial proceeding,' *Younger* abstention does not apply."); *Rodriguez v. Providence Cmty. Corr., Inc.*, 191F. Supp. 3d 758, 763 (M.D. Tenn. 2016) ("The mere existence of Plaintiffs' undischarged debts does not constitute an 'ongoing state judicial proceeding,' and *Younger* abstention therefore does not apply."); *Ray v. Judicial Corrs. Servs*., No. 2:12-CV-02819-RDP, 2013 WL 5428360, at *12 (N.D. Ala. Sept. 26, 2013) (holding "the declaratory and injunctive relief sought by Plaintiffs is not intended to contradict or overturn the substance of the prior state court proceedings, but instead targets Childersburg's post-judgment procedure, removing the very concern that animates the *Younger* doctrine's concern with improper interference with a pending state proceeding").

The cases cited by Defendants in support of their *Younger* argument are readily distinguishable. *Gorenc v. City of Westland* involved a plaintiff who filed a motion in federal court seeking to enjoin a pending state court traffic prosecution, the existence of which was undisputed. 72 F. App'x 336, 337–39 (6th Cir. 2003). The Eleventh Circuit's decision in *Luckey v. Miller*, 976 F.2d 673 (11th Cir. 1992), involved an expansive interpretation of *Younger* and was decided long before the Supreme Court narrowed the doctrine in *Sprint*. Moreover, *Luckey* involved a challenge to the state indigent defense system in Georgia, which the U.S. Court of Appeals for the Eleventh Circuit found would "restrain every indigent prosecution and contest every indigent conviction." *Id.* at 677. This case, in contrast, would do no such thing because it challenges only post-conviction debt collection practices. Defendants also inexplicably cite to cases addressing the *Rooker-Feldman* doctrine. But these cases do not concern *Younger* abstention, much less support its application to Mr. Goodwin's or Mr. Wright's

prospective relief claims.[11]

Finally, the fact that Mr. Goodwin "is subject to a bench warrant and arrest" for nonpayment of fines and fees owed to the Irmo Magistrate Court does not justify the application of *Younger* abstention. Dkt. No. 29–2 at ¶ 3.g. Simply put, there is no ongoing, parallel state proceeding that would be harmed by this Court's exercise of jurisdiction over Mr. Goodwin's constitutional claims for prospective relief. *See generally Steffel v. Thompson*, 415 U.S. 452, 462 (1974) ("When no state criminal proceeding is pending at the time the federal complaint is filed, federal intervention does not result in duplicative legal proceedings or disruption of the state criminal justice system; nor can federal intervention, in that circumstance, be interpreted as reflecting negatively upon the state court's ability to enforce constitutional principles."). Because this case does not concern any of the three "exceptional circumstances" that "define *Younger*'s scope," this Court is obligated to decide Mr. Goodwin and Mr. Wright's prospective relief claims. *Sprint*, 134 S. Ct. at 591.

3. Application of the *Middlesex* factors weighs against *Younger* abstention.

Defendants contend that application of the three *Middlesex* factors compels the Court to abstain from adjudicating Mr. Goodwin's claims for declaratory and injunctive relief. This argument fails for two basic reasons.

First, Defendants' exclusive reliance on the *Middlesex* factors ignores that they are "not

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[11] *See* Dkt. No. 29–1 at 7 n.3 (citing *Rooker v. Fidelity Trust Co*., 263 U.S. 413 (1923); *Jones v. Crosby*, 137 F.3d 1279, 1980 (11th Cir. 1998); *Reece v. Whitley*, NO. 3:15-0361, 2016 WL 705265 (M.D. Tenn. Feb. 23, 2016), *report and recommendation adopted*, 2016 WL 5930886 (M.D. Tenn. 2016)). Nor does the *Rooker-Feldman* doctrine apply to this case. That doctrine deprives federal courts of subject matter jurisdiction to hear claims by "state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobil Corp. v. Saudi Basic Industries Corp*., 544 U.S. 280, 284 (2005). But Mr. Goodwin does not seek to overturn or mount a collateral attack on his conviction for DUS-3 or his sentence to jail time and the payment of fines and fees. He only seeks prospective relief for constitutional violations stemming from post-conviction debt collection procedures that cause the arrest and incarceration of indigent people without a pre-deprivation court hearing and representation by counsel. Such relief does not require a determination that the DUS-3 conviction and sentence were "erroneously entered," or necessitate any "action that would render the judgment ineffectual" as required for *Rooker-Feldman* to apply. *Jordahl v. Democratic Party of Virginia*, 122 F.3d 192, 202 (4th Cir. 1997).

dispositive" and are, "instead, *additional* factors appropriately considered by the federal court before invoking *Younger*." *Sprint*, 124 S. Ct. at 593 (emphasis in original). As discussed above, this case does not concern any of the three narrow types of ongoing proceedings that may permit a federal court to abstain under *Younger*. Thus, that doctrine does not apply and the Court must adjudicate Plaintiffs' claims.

Second, consideration of the *Middlesex* factors only affirms that *Younger* abstention is inappropriate in this case. The *Middlesex* factors ask: (1) whether there is an ongoing state judicial proceeding; (2) whether that proceeding "implicate[s] important state interests"; and (3) whether that proceeding affords the plaintiff an adequate opportunity to raise constitutional challenges. *Middlesex*, 457 U.S. at 432. For the reasons discussed above, there is no state court "proceeding" that is "ongoing" with respect to Mr. Wright, as Defendants concede. While Mr. Goodwin owes fines and fees to the Irmo Magistrate Court and is subject to a bench warrant for his arrest and incarceration due to his failure to pay that debt, nothing is "ongoing" at this moment. *See* Dkt. No. 29–2 at ¶ 3.g. There is simply no state court proceeding in which Mr. Goodwin can seek prospective relief on the ground that his imminent arrest and incarceration violates his Fourteenth Amendment right to a pre-deprivation court hearing on his ability to pay, his Sixth Amendment right to representation by court-appointed counsel as an indigent person facing incarceration, and his Fourth Amendment right to freedom from unreasonable seizures. Nor has Mr. Goodwin ever been granted such an opportunity. Only one court hearing was held regarding the fines and fees Mr. Goodwin currently cannot afford to pay, and that was the Irmo Magistrate Court proceeding at which he was convicted and sentenced. Goodwin Decl. ¶¶ 6–10. At that hearing, the court did not consider Mr. Goodwin's ability to pay or appoint a public defender to represent him. *Id.* Indeed, the crux of Mr. Goodwin's prospective relief claims is

that Defendants cause the post-conviction arrest and incarceration of indigent people for nonpayment of magistrate court fines and fees without affording them a pre-deprivation court hearing on their ability to pay, as required under *Bearden v. Georgia*, 461 U.S. 660 (1983). Dkt. No. 20 ¶ 445.

The Supreme Court's decision in *Gerstein* is instructive on this point. There the plaintiffs challenged state procedures permitting the incarceration of a person arrested without a warrant and charged by information without any opportunity for a probable cause determination. 420 U.S. at 108, 116 & n.9. The Supreme Court affirmed that *Younger* did not bar federal relief because the plaintiffs' request for injunctive relief "was not directed at the state prosecutions as such, but only at the legality of pretrial detention without a judicial hearing, an issue that could not be raised in defense of a criminal prosecution." *Gerstein*, 420 U.S. at 108 n.9 (emphasis added). Similarly, Mr. Goodwin's prospective relief claims do not attack his conviction or sentence for DUS-3, both of which became final long before he filed suit. Rather, they challenge post-conviction debt collection practices that result in incarceration without a pre-deprivation judicial hearing and representation by counsel, issues that could not have been raised in the Irmo Magistrate Court criminal prosecution precisely because of the deficiencies alleged.

Thus, even if there were a pending state court proceeding that implicates important state interests, the undisputed record shows that Mr. Goodwin simply does not have—and never will have—an opportunity to assert in state court his claims under the U.S. Constitution for prospective relief from unlawful arrest and incarceration without a pre-deprivation court hearing and representation by counsel. Although Defendants invoke the state's interest in road safety as a justification for federal court abstention, Mr. Goodwin has already been convicted and served jail time for driving under a suspended license, third offense, which satisfies that interest. *See*

Dkt. No. 29–1 at 7; Dkt No. 29–2 ¶ 3.g. While Defendants' effort to collect unpaid magistrate court fines and fees implicates the County's financial interests, the pursuit of that debt does not justify having this Court abstain from exercising jurisdiction over Mr. Goodwin's prospective relief claims, which he brings on behalf of himself and a class of similarly situated indigent people.

The *Middlesex* factors thus strongly weigh against the application of *Younger* abstention in this case. The Court should therefore adjudicate Mr. Goodwin and Mr. Wright's claims for declaratory and injunctive relief.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully ask the Court to deny Defendants' motion for partial summary judgment. This Court should exercise jurisdiction over the prospective relief claims brought by Mr. Goodwin and Mr. Wright, proceed to the resolution of these Plaintiffs' pending motion for class certification, and permit this case to proceed to discovery.

DATED this 11th day of September 2017.

Respectfully submitted by,

s/ Susan K. Dunn

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