

## LITIGATION

# Cain v. New Orleans

Ability to Pay, Debtors' Prisons, Due Process, Equal Protection | Louisiana

### **Background**

Plaintiff-Appellees were former criminal defendants in Orleans Parish Criminal District Court (OPCDC) who pleaded guilty to various criminal defenses and were assessed fines and fees. All were arrested for failure to pay their assessed fines and fees; bond was set at \$20,000 each; and, they each spent between six days and two weeks in jail. The court's collection of fines and fees funded about one quarter of the Judicial Expense Fund (JEF); the Judges had exclusive control over how the JEF was spent and generally used it for court staff salaries as well as other administrative and maintenance expenses. When the court did not collect sufficient fines and fees, OPCDC struggled to meet its operational needs, leading to cuts in services, reduction of staff salaries, and unfilled positions. During these times, the Judges attempted to increase their fines and fees collection efforts.

Plaintiff-Appellees brought suit, alleging, among other things, that: (1) the judges' failure to inquire into a defendant's ability to pay the fines and fees assessed before jailing them for failure to pay violated the Equal Protection and Due Process Clauses of the Fourteenth Amendment; and, (2) the judges' authority over both fines and fees revenue and ability-to-pay determinations violated the Due Process Clause of the Fourteenth Amendment because the conflicts of interest inherent in the judges' enforcement of fines and fees that funded the JEF deprived plaintiffs of a neutral decisionmaker..

The district court issued a declaratory judgment in favor of plaintiffs on both grounds. The judges challenged only the portion of the declaratory judgment that deemed their failure to provide a neutral forum unconstitutional.

### **Holding**

The Fifth Circuit found that the "Judges' administrative supervision over the JEF, while simultaneously overseeing the collection of fines and fees making up a substantial portion of the JEF" violated the Constitution. The "average man as judge" standard, employed by the district court, was properly applied to determine whether the Judges' interest in the JEF violated the Due Process Clause. Contrary to the Judges' contention, the "average man as judge" standard is applied to situations where either "the impartiality of non-judges acting as judges" or the "average judge's" impartiality is called into question; there is no higher standard for judges. Further, the judges' pecuniary interest in the JEF crossed the constitutional line. The totality of the situation—the fines and fees revenue going into the JEF, over which the Judges exercised exclusive

control; the revenue supporting the salaries of the Judges' staff; and the revenue comprising approximately one quarter of the OPCDC's budget—resulted in a “temptation” amounting to a constitutional infirmity.

You can find relevant court documents and a detailed case summary via the [Civil Rights Litigation Clearinghouse](#).

Causes of action: 42 U.S.C. § 1983 Declaratory Judgment Act, 28 U.S.C. § 2201

Docket Number: 2:15-cv-04479-SSV-JCW ( E.D. La. ) and 18-30955

Date of Decision: August 23, 2019

Counsel for the Plaintiff: Civil Rights Corps