

Utah inmate's death highlighted in 'debtors' prison' report

Wednesday, February 21, 2018

<http://www.standard.net/Courts/2018/02/21/Utah-man-s-jail-death-highlighted-in-debtors-prisons-report.html>



Rex Iverson, 45, died in the Box Elder County Jail Saturday, Jan. 23, 2016, after being arrested on a Tremonton Justice Court bench warrant for failing to pay a \$2,400 judgment on a 2013 Tremonton City Ambulance bill.

Mark Shenefelt
Ogden Standard-Examiner

Utah and 43 other states are allowing modern “debtors’ prison” circumstances to flourish as more low-income people are jailed or threatened with incarceration after not paying bills, a civil rights group says.

The American Civil Liberties Union issued a report Wednesday condemning a wide range of practices by debt collectors, courts and prosecutors that the group says prey upon the poor, Hispanics and blacks.

RELATED: Utah courts increase use of civil bench warrants to compel debt payments

A series of case studies included the story of Rex Iverson, who died in a Box Elder County Jail holding cell in January 2016 after taking strychnine — a highly toxic alkaloid often used as a pesticide.

Iverson, 45, had told friends he would kill himself before he would go back to jail. A sheriff’s deputy arrested him at his home after the man failed to comply with a Tremonton Justice Court

order to appear in court to answer a judgment of about \$2,400 for an unpaid city ambulance bill.

“The abuse of civil contempt proceedings to extract payments from debtors violates centuries-old federal and state laws prohibiting incarceration for debt,” said the ACLU report from Washington, D.C. “Although courts ostensibly issue arrest warrants to compel alleged debtors to appear in court or comply with a court order to provide financial information, in practice debt collectors request arrest warrants to use them as leverage in debt collection.”

That’s apparently what happened to Iverson.

The unemployed Bear River City man wasn’t arrested directly for not paying a debt, but rather was served with a \$350 bench warrant issued by the justice court judge for failing to appear in court on the matter. The bill collector — Tremonton City — had filed a civil suit against Iverson and received a default judgment for the unpaid ambulance bill.

RELATED: Man who died in Box Elder jail was there for not paying a debt

“Creditors and debt collectors are keenly aware that they are most likely to receive payments from debtors when they are under threat of arrest or incarcerated,” the ACLU report said.

State courts data obtained by the Standard-Examiner showed Utah judges issued 5,831 civil bench warrants in fiscal year 2016. Thousands of civil case judgments against debtors are issued each year in Weber County’s district and justice courts, including more than 200 alone in January 2018.

Debtors’ prisons were abolished by Congress in 1833. But the ACLU said the modern reality is that private and government debt collectors are using the criminal justice system to punish debtors and terrorize them into paying even when a debt is in dispute or when the debtor has no ability to pay.

“The people who are jailed or threatened with jail often are the most vulnerable Americans living paycheck-to-paycheck, one emergency away from financial catastrophe,” the report said. The ACLU said it reviewed more than 1,000 cases in 26 states, finding that most of those jailed or threatened with being locked up were struggling to recover after the loss of a job, medical bills, the death of a family member, a divorce or an illness. Those affected included retirees or people with disabilities who are unable to work.

“Some were subsisting solely on Social Security, unemployment insurance, disability benefits, or veterans’ benefits — income that is legally protected from outstanding debt judgments,” the report said.

Minorities bear the worst of debt collection, the report said. Hispanics and blacks, it noted, are more likely to be poor, and therefore “they are more frequently targeted for risky financial products, such as payday loans.”

It is the Utah courts’ general practice that judges will issue an order to show cause when a person fails to respond to a debt collection claim, said Geoff Fattah, spokesman for the Utah Administrative Office of the Courts.

“At this point, the judge wants to know why the person hasn’t responded,” Fattah said in an email. “If they fail to show up for the order to show cause hearing, a judge may then issue an arrest warrant; not for the debt allegedly owed, but for ignoring repeated court orders to show up for hearings.”

He said the courts are working on an online dispute resolution service to be implemented later this year.

“This will allow people facing a debt collection claim to respond and handle the case online, without having to show up to court. We hope this will offer an easier option.”

Some coercive debt collection practices are sanctioned by local prosecutors, the ACLU said, although no such arrangements were apparent in Utah.

Around the country, private debt collectors contract with county district attorney offices to threaten people with criminal prosecution for bounced checks, the ACLU said. Companies seeking to enforce collection of bad checks send letters on district attorney letterhead to people who have written bounced checks, to threaten them with prosecution, jail and fines if they do not pay up.

The civil rights group also lamented the scarcity of legal defense available to debtors.

In criminal proceedings, indigent defendants have a Sixth Amendment right to court-appointed lawyers if they face actual or suspended incarceration and cannot afford to pay for a lawyer, the ACLU report said.

“Indigent debtors should similarly be afforded the right to appointed counsel when their liberty is at stake, even in civil debt collection or civil post-judgment proceedings,” it said. “... the basic constitutional principle of fair treatment weigh(s) in favor of appointing counsel to assist indigent debtors in these circumstances.”

The ACLU report recommended that state legislatures prohibit the issuance of warrants against debtors for contempt, failure to appear or failure to comply.

Absent a total ban, the group recommended that states still permitting debtor jailings should be required to impose protections for the inmate. Those would include bail being set based on the person’s ability to pay; that jailed debtors not be required to post bail in cash, and that court-appointed counsel be provided to those jailed.

Fattah said the recommendations affecting Utah “appear to sit squarely on the Utah Legislature changing the law.”

The ACLU’s national offices did not immediately respond to questions about the report.

You can reach reporter Mark Shenefelt at mshenefelt@standard.net. Follow him on Twitter at [@mshenefelt](https://twitter.com/mshenefelt) and like him on Facebook at [Facebook.com/SEMarkShenefelt](https://www.facebook.com/SEMarkShenefelt).