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Right to Lawyer Can Be Empty Promise for Poor

By [ETHAN BRONNER](#)

ADEL, Ga. — Billy Jerome Presley spent 17 months in a Georgia jail because he did not have \$2,700 for a child support payment. He had no prior jail record but also no lawyer. In Baltimore last fall, Carl Hymes, 21, was arrested on charges of shining a laser into the eyes of a police officer. Bail was set at \$75,000. He had no arrest record but also no lawyer. In West Orange, N.J., last summer, Walter Bloss, 89, was served with an eviction notice from the rent-controlled apartment he had lived in for 43 years after a dispute with his landlord. He had gone to court without a lawyer.

Fifty years ago, on March 18, 1963, the Supreme Court unanimously ruled in [Gideon v. Wainwright](#) that those accused of a crime have a constitutional right to a lawyer whether or not they can afford one. But as legal officials observe the anniversary of what is widely considered one of the most significant judicial declarations of equality under law, many say that the promise inherent in the Gideon ruling remains unfulfilled because so many legal needs still go unmet.

Civil matters — including legal issues like home [foreclosure](#), job loss, spousal abuse and parental custody — were not covered by the decision. Today, many states and counties do not offer lawyers to the poor in major civil disputes, and in some criminal ones as well. Those states that do are finding that more people than ever are qualifying for such help, making it impossible to keep up with the need. The result is that even at a time when many law school graduates are without work, many Americans are without lawyers.

The [Legal Services Corporation](#), the Congressionally financed organization that provides lawyers to the poor in civil matters, says there are more than 60 million Americans — 35 percent more than in 2005 — who qualify for its services. But it calculates that 80 percent of the legal needs of the poor go unmet. In state after state, according to a survey of trial judges, more people are now representing themselves in court and they are failing to present necessary evidence, committing procedural errors and poorly examining witnesses, all while new lawyers remain unemployed.

“Some of our most essential rights — those involving our families, our homes, our livelihoods — are the least protected,” Chief Justice Wallace B. Jefferson of the Texas Supreme Court, said in a recent speech at New York University. He noted that a family of four earning \$30,000 annually does not qualify for legal aid in many states.

James J. Sandman, president of the Legal Services Corporation, said, “Most Americans don’t realize that you can have your home taken away, your children taken away and you can be a victim of domestic violence but you have no constitutional right to a lawyer to protect you.”

According to the World Justice Project, a nonprofit group promoting the rule of law that got its start through the American Bar Association, the United States [ranks 66th out of 98 countries](#) in access to and affordability of civil legal services.

“In most countries, equality before the law means equality between those of high and low income,” remarked Earl Johnson Jr., a retired justice of the California Court of Appeal. “In this country for some reason we are concerned more with individuals versus government.”

With law school graduates hurting for work, it may appear that there is a glut of lawyers. But many experts say that is a misunderstanding.

“We don’t have an excess of lawyers,” said Martin Guggenheim, a law professor at New York University. “What we have is a miserable fit. In many areas like family and housing law, there is simply no private bar to go to. You couldn’t find a lawyer to help you even if you had the money because there isn’t a dime to be made in those cases.”

Even in situations where an individual is up against a state prosecutor and jail may result, not every jurisdiction provides lawyers to the defendants. In Georgia, those charged with failing to pay child support face a prosecutor and jail but are not supplied with a lawyer.

Mr. Presley lost his job in the recession and fell way behind on support payments for his four children. In 2011, he was jailed after a court proceeding without a lawyer in which he said he could not pay what he owed. He was brought back to court, shackled, every month or two. Each time, he said he still could not pay. Each time, he was sent back.

A year later, he contacted a public defender who handles only criminal cases but who sent his case to the [Southern Center for Human Rights](#). Atteeyah Hollie, a lawyer there, got him released that same day, helped him find work and set up a payment plan.

An important service lawyers can provide defendants like Mr. Presley is knowledge of what courts want — receipts of medical treatment, evidence of a job search, bank account statements. On their own, many people misstep when facing a judge.

In Adel, Ga., a town of 5,000, child support court meets monthly. On a recent morning, a dozen men in shackles and jail uniforms faced Chuck Reddick, a state prosecutor, on their second or third round in court.

“In most cases, they simply can’t pay,” said John P. Daughtrey, who was sheriff here until losing an election in November. “An attorney could explain to the judge why jail is not the solution and how to fix it. As a sheriff, I want criminals in my jail, not a debtor’s prison.”

Mr. Reddick and Judge Carson Dane Perkins of Cook County Superior Court in Adel both said they would welcome lawyers for defendants because it would make the process clearer and smoother.

“If we could extend the right to a lawyer to civil procedures where you face a loss of liberty, that would be good,” Judge Perkins said. “Lawyers can get affidavits from employers and help make cases for those who can’t pay.”

The [Southern Center for Human Rights](#) has filed a class-action suit seeking a guarantee of a lawyer for such cases in Georgia. Sarah Geraghty, a lawyer there, said the center had received thousands of calls from Georgians facing child support hearings. Among them was Russell Davis, a Navy veteran with post-traumatic stress disorder who was jailed three times and lost his apartment and car while in jail.

Georgia also offers a case study on the mismatch between lawyers and clients at a time when each needs the other. According to the Legal Services Corporation, 70 percent of the state’s lawyers are in the Atlanta area, while 70 percent of the poor live outside it. There are six counties without a lawyer and dozens with only two or three.

Mr. Bloss, who faced eviction in New Jersey, went to legal services, which won for him the right to stay in his apartment while his case is under appeal.

In Baltimore, where Mr. Hymes was accused of shining a laser at a police officer and assigned bail of \$75,000, first bail hearings do not include a lawyer. Tens of thousands are brought through Central Booking every year, facing a commissioner through a glass partition, who determines whether to release the detainee on his own recognizance or assign bail and at what level.

“For the poor, bail is a jail sentence,” said [Douglas L. Colbert](#), a law professor at the University of Maryland. A study he conducted on 4,000 bail cases of nonviolent offenders found that two and a half times as many detainees were released on their own recognizance and bail was set at a far more affordable level if a lawyer was at the hearing.

Mr. Hymes was relatively lucky. When he eventually faced a judge with the help of a public defender, bail was slashed to \$200 cash. It took his family a few weeks to pay. A student of Mr. Colbert’s, Iten Naguib, acted as an intermediary.

“If there had been an attorney involved at the initial stages,” Ms. Naguib said, “Mr. Hymes would likely have been released much earlier.”