

EXPARTE DAVIS, 344 SW 2d 925 (1976) : Federal statutes guarantee protection (to the Respondent) from having “imputed income” orders. Furthermore, these statutes provide (to the Respondent) protection of his rights to be free from unlawful child support or any kind of garnishment. That, child support is a civil matter and there is no probable cause to seek or issue body attachment, bench warrant, or arrest in child support matters because it is a civil matter.

The use of such instruments (body attachment, bench warrants, arrests, etc.) presumably is a method to "streamline" arresting people for child support and circumventing the Fourth Amendment to the United States Constitution, and is used as a debt-collecting tool using unlawful arrests and imprisonment to collect a debt or perceived debt.

The arrest of non-custodial parents in which men make up significant majority of the "arrestees", is "gender profiling", "gender biased discrimination" and a "gender biased hate crime" in that it violates the Equal Protection Clause of the Fourteenth Amendment. A man, pursuant to the Equal Protection Clause of the Constitution of the United States, cannot be arrested in a civil matter as a woman is not. There is no escaping the fact that there is no probable cause in a civil matter to arrest or issue body attachment. "Probable cause" to arrest requires a showing that both a crime has been, or is being committed, and that the person sought to be arrested committed the offense. U.S.C.A. Const. Amend. 4.

In the instant case, no probable cause can exist, because the entire matter has arisen out of a civil case. Therefore, seeking of body attachment, bench warrant, or arrest by the Petitioner (and her attorney), and/or issuing of the same by the court, in this civil case would be against the law and the Constitution.

Under **U.S. v. Rylander** ignorance of the order or the inability to comply with the child support order, or as in this case, to pay, would be a complete defense to any contempt sanction, violation of a court order or violation of litigant's rights.

Every U.S. Court of Appeals that has addressed this issue, has held that child support is a common, commercial (and civil) debt, See, U.S. v. Lewko, 269 F.3d 64, 68-69 (1st Cir. 2001)(citations omitted) and U.S. v. Parker, 108 F.3d 28, 31 (3rd Cir. 1997). Allen v. City of Portland, 73 F.3d 232 (9th Cir. 1995), the Ninth Circuit Court of Appeals (citing cases from the U.S. Supreme Court, Fifth, Seventh, Eighth and Ninth Circuits) “by definition, probable cause to arrest can only exist in relation to criminal conduct; civil disputes cannot give rise to probable cause”; Paff v. Kaltenbach, 204 F.3d 425, 435 (3rd Cir. 2000) (Fourth Amendment prohibits law enforcement officers from arresting citizens without probable cause. See, Illinois v. Gates, 462 U.S. 213 (1983), therefore, no body attachment, bench warrant or arrest order may be issued.

If a person is arrested on less than probable cause, the United States Supreme Court has long recognized that the aggrieved party has a cause of action under 42 U.S.C. §1983 for violation of Fourth Amendment rights. Pierson v. Ray, 386 U.S. 547, 87 S.Ct. 1213 (1967). Harlow v. Fitzgerald, 457 U.S. 800, 818 (there can be no objective reasonableness where officials violate clearly established constitutional rights such as-- (a) United States Constitution, Fourth Amendment (including Warrants Clause), Fifth Amendment (Due Process and Equal Protection), Ninth Amendment (Rights to Privacy and Liberty), Fourteenth Amendment (Due Process and Equal Protection).