No. ___

In the Supreme Court of the United States

LINDA THURMAN AND COURTNEE CARROLL,
PETITIONERS,

v.

JUDICIAL CORRECTION SERVICES, INC. AND
CORRECTIONAL HEALTHCARE COMPANIES, INC.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Under the *Rooker–Feldman* doctrine, federal district courts lack jurisdiction to hear cases seeking review of judgments issued by state courts. In this case, the purported state-court judgments—municipal-court probation orders—were issued by employees of a private probation-supervision contractor and were not reviewed, approved, or signed by a state-court judge.

The question presented, on which the circuits are split, is: Whether *Rooker–Feldman* doctrine applies when the underlying state-court judgment is void *ab initio*.

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OPINIONS BELOW

The opinion of the court of appeals (App. 1a–15a) is available at 2019 WL 157547. The judgment of the district court (App. 16a–43a) is available at 2017 WL 4079039.

JURISDICTION

The judgment of the court of appeals was entered January 10, 2019. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATUTORY PROVISIONS INVOLVED

28 U.S.C. 1257(a) provides, in relevant part: "Final judgments or decrees rendered by the highest court of a

State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari . . . ."

28 U.S.C. 1331 provides: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

INTRODUCTION

What is now known as the *Rooker–Feldman* doctrine arises from two cases: *Rooker* v. *Fidelity Trust Co.*, 263 U.S. 413 (1923), and *District of Columbia Court of Appeals* v. *Feldman*, 460 U.S. 462 (1983). Under *Rooker–Feldman*, "lower federal courts are precluded from exercising appellate jurisdiction over final state-court judgments." *Lance* v. *Dennis*, 546 U.S. 459, 463 (2006). This judge-made doctrine arises out of negative implication from two federal statutes: 28 U.S.C. 1257, which gives this Court jurisdiction over final state-court judgments, and 28 U.S.C. 1331, which vests federal district courts with "original" jurisdiction. By its terms, the doctrine "is confined to cases of the kind from which the doctrine acquired its name: cases brought 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 Indus. Corp.*, 544 U.S. 280, 284 (2005).

The Court in *Rooker* applied the rule only after satisfying itself that the state-court judgment at issue was a proper exercise of the state court's jurisdiction and thus not a nullity. Yet despite the doctrine's history and limits, the courts of appeal are now divided on a question implicated by this case: Whether *Rooker–Feldman* applies even when—unlike in *Rooker* and unlike in *Feldman*—the underlying state-court judgment was void *ab initio* and hence a nullity from the start.

Several circuits, including the Eleventh Circuit, hold that no exception applies in these circumstances; other circuits have held or suggested that the exception applies only in cases implicating the jurisdiction of federal bankruptcy courts; and one circuit has stated that the exception applies more broadly. In this case, the Eleventh Circuit applied *Rooker–Feldman* despite Petitioners' argument that there was no bona fide state-court judgment because the underlying municipal probation orders were issued by employees of a private contractor, and were neither reviewed, approved, or signed by an actual state-court judge.

The Eleventh Circuit not only deepened a longstanding circuit split, but its decision is wrong as well. Although *Rooker–Feldman* doctrine reflects respect for and deference to the judgments of state courts, those principles are not implicated when the state court has not issued a bona fide judgment. In those circumstances, refusing to exercise subject-matter jurisdiction upsets the delicate federal-state balance and prevents federal courts from adjudicating important legal disputes on which the state court has not actually ruled.

Finally, and as this case highlights, *ab initio* state-court judgments in these circumstances—including and especially when the judgment reflects no input from an actual court—are far more likely to thwart a party's ability to challenge those rulings in state court, because the rigorous procedural protections typically offered by a state's judicial branch are more likely to be missing. Here, for instance, Petitioners' privately issued probation orders warned them not to contact the court with any questions or concerns about those orders, suggesting to them that they had no opportunity to seek appellate review.

In sum, the circuits have been split for nearly three

decades over whether and to what extent *Rooker–Feldman* applies even when the purported state-court judgment is void *ab initio*. That circuit split is implicated by this case, involving a state-court judgment that was not actually reviewed, approved, or signed by a state-court judge. And applying *Rooker–Feldman* in these circumstances is at odds with this Court's precedents—including *Rooker* itself.

STATEMENT

A. Factual Background

Petitioners received purported "Orders of Probation" from Judicial Correction Service (JCS)—a private contractor that supervised municipal-court probation in Montgomery, Alabama. These probation orders were not reviewed, approved, or signed by a judge.

1. A private contractor, Judicial Correction Services, issues municipal probation orders without judicial review, approval, or signature.

At the relevant times, the Montgomery, Alabama Municipal Court had an "unwritten policy" governing probation. App. 22a. When certain defendants visited the clerk's office and agreed to be placed on probation, a JCS "intake specialist would sign the defendant up for probation, write the judge's name on the probation order, and initial the order." *Ibid.*

This policy was memorialized in a 2013 Municipal Court standing order. *Ibid.* Under the policy, defendants who owed less than $1500 to Municipal Court and requested a payment plan would be placed "with JCS." *Ibid.* Only defendants who owed more than $1500 would receive a hearing before a judge. *Ibid.* As a result, of the more than 40,000 probation orders issued by JCS in Alabama, more than 13,000 were not signed by any judge. Dist. Ct. Dkt. 113-1.

2. Judicial Correction Services issues a probation order to Petitioner Courtnee Carroll without judicial review, approval, or signature.

In April 2010, Montgomery, Alabama police issued three traffic tickets to Petitioner Courtnee Carroll. App. 18a. After calling Montgomery Municipal Court, Carroll was told that the three tickets would cost her about $500. App. 18a–19a.

The next month, Carroll visited Municipal Court to work out a payment plan. She was directed to a person who she believed to be a municipal employee, but who in fact worked for JCS. Dist. Ct. Dkt. 85-3 at 81:2–82:11. During their meeting, which lasted just two or three minutes, the JCS employee handed Carroll a document to sign. *Id.* at 52:10–17.

The document's caption read, "IN THE MUNICIPAL COURT OF MONTGOMERY, AL." Dist. Ct. Dkt. 85-2. It was entitled "ORDER OF PROBATION," and is followed by a line stating, "NOW ON THIS DAY, by virtue of the authority vested in me as a Municipal Court Judge . . . I hereby order." *Ibid.* But while the document has a signature line for the Municipal Court, no judge signed the order. App. 20a. Instead, the order was issued and signed by a JCS employee, with no input from, much less approval by, a judge. *Ibid.*

Carroll then signed the document. The order that she signed purported to place her on probation for twelve months; it also ordered her to pay (1) a $10 "set-up fee" and a monthly $40 fee to JCS, and (2) a monthly fee of $140 "towards the amounts she owed to the Municipal Court and JCS." App. 19a. Finally, the order instructed Carroll to report to a probation officer and that she could be arrested for violating any probation term. App. 19a–20a.

JCS provided Carroll with a second document as well. Among other things, that document warned Carroll against contacting the court: "**Do not contact the Municipal Court** they will be unable to help you." App. 20a (emphasis in original). Carroll finished paying the fines and fees by January 2011. *Ibid.*

3. Judicial Correction Services issues a probation order to Petitioner Linda Thurman without judicial review, approval, or signature.

Plaintiff Linda Thurman received a citation in January 2012 for a traffic violation, and pleaded guilty by signing her traffic ticket. App. 20a. The next month, she too signed an "order of probation" issued on Municipal Court letterhead. App. 21a. The order detailed the same conditions as did Carroll's order, and instructed Thurman to pay $279 in court costs, a $10 "set up fee," and monthly payments of $140 towards her balance. *Ibid.*; Dist. Ct. Dkt. 85-11

As with Carroll, no judge was present. Dist. Ct. Dkt. 97-5 at 52:18–53:3, 59:14–60:9. Instead, the order was signed by a JCS employee. App. 21a. In addition, "Judge Les Hayes's last name was handwritten into the order," along with the initials of a JCS employee. *Ibid.*; Dist. Ct. Dkt. 85-11; Dist. Ct. Dkt. 93-4 at 117:1–19. And like Carroll, Thurman also received a document from JCS warning her not to contact the municipal court. App. 8a, 11a.

In addition, a JCS employee told Thurman to bring $35 or $40 with her to her probation appointments and JCS employees threated to have her arrested if she did not bring at least $5 to an appointment. App. 21a. At one appointment, Thurman saw another woman threatened with arrest if she did not pay $332. Dist. Ct. Dkt. 97-5 at 61:15–62:13. Thurman completed her payments in August 2012. App. 21a.

B. Procedural History

1. Carroll and Thurman filed suit against JCS (and its successor, Correctional Healthcare Companies, Inc.) in the U.S. District Court for the Middle District of Alabama, on behalf of a proposed class of individuals alleging that JCS's practices violated federal and state law. App. 16a–17a. After discovery, the district court granted JCS's motion for summary judgment. App. 16a. With respect to Petitioners' claims for unjust enrichment and requests for a declaratory judgment that JCS's administration of probation orders was unlawful, the district court dismissed those claims under *Rooker–Feldman* doctrine. App. 26a–34a.[1]

2. A divided panel of the Eleventh Circuit affirmed, holding that *Rooker–Feldman* deprived the federal court of subject-matter jurisdiction over Petitioners' unjust-enrichment and declaratory-judgment claims. App. 2a–15a.

With respect to Petitioners' argument that the underlying probation orders were not bona fide state-court judgments, because they were not reviewed, approved, or signed by an actual judge, the court held that *Rooker–Feldman* itself precludes the court from determining that "those orders are not lawful orders of probation without a signature." App. 8a. The court also rejected Petitioners' alternative argument that they lacked a meaningful opportunity to raise their claims in state court because the probation orders instructed them: "Do not contact the

[1] After concluding that the court lacked subject-matter jurisdiction, the district court nonetheless ruled, in the alternative, that Petitioners' unjust-enrichment claims were barred by Alabama's "voluntary payment doctrine." App. 34a–38a. The district court dismissed the remaining claims, which were not foreclosed by *Rooker–Feldman*, either for want of Article III standing or on the merits. See App. 38a–43a.

Municipal Court they will be unable to help you." App. 8a–10a.

Because it concluded that the district court did not have jurisdiction over these claims, the court of appeals "[did] not reach the state law question of whether the voluntary payment doctrine prevents [Petitioners'] recovery for the payments [they] made to [JCS]." App. 10a n.1.

Judge Martin dissented, concluding that *Rooker–Feldman* should not apply. When JCS warned Petitioners against contacting the Municipal Court, she wrote, it "obstructed [Petitioners'] access to state court review." App. 11a. In particular, "[t]he instruction they received from JCS—the self-avowed agent of the Municipal Court charged with supervising their terms of probation—told them in no uncertain terms '[d]o not contact the Municipal Court.'" App. 13a. Accordingly, Petitioners "could not have presented their claims to the Municipal Court without violating the emphatic instruction given by JCS." *Ibid.*

On the merits, Judge Martin stated that Alabama's Voluntary Payment Doctrine did not foreclose Petitioners' claim for unjust enrichment, because Petitioners "certainly could have been under the mistaken impression the Municipal Court—and not JCS—had selected and imposed the fees they were required to pay to JCS." App. 15a.

REASONS FOR GRANTING THE PETITION

The Court should grant the petition to resolve a longstanding circuit split over whether the *Rooker–Feldman* doctrine applies when the underlying state judgment is void *ab initio*. The circuits are split three ways on this question, which is presented directly by this case. And the Eleventh Circuit's ruling is inconsistent with this Court's precedents and would unduly divest the federal courts of jurisdiction over an important set of cases in which state

courts are acting without jurisdiction or have failed to issue bona fide orders.

I. This case implicates a three-way circuit split on whether *Rooker–Feldman* applies to state-court judgments that are void *ab initio*.

Petitioners received orders of probation from a private company's employees, and those orders were not reviewed, approved, or signed by a municipal judge. Yet the Eleventh Circuit held that *Rooker–Feldman* applies even when the underlying state-court judgment is void *ab initio* under state law. In particular, the court noted that "[p]laintiffs contend [that] the orders of probation are not valid orders because a judge did not sign the documents ordering them to pay probation fees," but held that *Rooker–Feldman* barred the court from assessing even the threshold question of whether the underlying orders were "lawful orders of probation." App. 6a, 8a.

A. The circuits are split three ways on whether and to what extent *Rooker–Feldman* applies when the state-court judgment is void *ab initio*.

The Eleventh Circuit's decision in this case implicates a three-way circuit split on whether and to what extent *Rooker–Feldman* applies in these circumstances—that is, when the underlying state-court judgment was null and void from the start. See *Matter of Cleveland Imaging & Surgical Hosp., L.L.C.*, 690 F. App'x 283, 286 (5th Cir. 2017) ("This court has neither endorsed nor rejected the *ab initio* exception. Our sister circuits are split on the issue.") (citation omitted); *In re Keeler*, 273 B.R. 416, 421 (D. Md. 2002) ("There is a split among the circuits as to whether there is a narrow exception to *Rooker–Feldman* for state judgments that are void *ab initio*."); *In re Thomas*, No. 04-26010-NVA, 2006 WL 5217796, at *2 (D. Md. Bankr. Feb. 22, 2006) ("There is a split among the circuits as to whether there is a narrow exception to *Rooker-*

Feldman for state judgments that are void *ab initio*."). This circuit split has persisted for nearly three decades.

1. The Eleventh Circuit, along with the First, Sixth, and Eighth Circuits, applies *Rooker–Feldman* even when the underlying state judgment is void *ab initio*.

In *Casale* v. *Tillman*, 558 F.3d 1258 (11th Cir. 2009), the Eleventh Circuit stated: "Other circuits have recognized an exception to [*Rooker–Feldman*] where the state court judgment is void *ab initio* due to the state court's lack of jurisdiction, but our circuit has never adopted that exception." *Id.* at 1261 (citations and quotation marks omitted). The Eleventh Circuit's decision in this case serves to reinforce its decision in *Casale*.

The Eleventh Circuit's approach is shared by the First, Sixth, and Eighth Circuits. In *Adams* v. *Fagundo*, 198 F. App'x 20 (1st Cir. 2006), the First Circuit applied *Rooker–Feldman* despite the plaintiffs' claims that the state-court judge "acted without jurisdiction." *Id.* at 22. In *Reguli* v. *Guffee*, 371 F. App'x 590 (6th Cir. 2010), the Sixth Circuit held that "[e]ven if issued without jurisdiction, the order was still issued by a state court, and *Rooker-Feldman* bars a federal court from reviewing the constitutionality of that order." *Id.* at 597. And in *In re Ferren*, 203 F.3d 559 (8th Cir. 2000), the Eighth Circuit refused to recognize the void *ab initio* exception, even when the state-court order interfered with a federal bankruptcy proceeding. See *id.* at 560.

In these circuits, *Rooker–Feldman*'s jurisdictional bar applies even when the underlying state court judgment was entirely invalid. And this ironclad jurisdictional rule applies no matter what the context or circumstances.

2. The Third Circuit, conversely, recognized in *In re James*, 940 F.2d 46 (3d Cir. 1991), that *Rooker–Feldman* does not apply when the underlying state judgment is void *ab initio*. And although *James* was a bankruptcy case, the

court stated more generally that *Rooker–Feldman* does not apply "when the state proceedings are considered a legal nullity and thus void *ab initio*." *Id.* at 52.

In so doing, the Third Circuit stressed the difference between a void *ab initio* decision and one that is merely incorrect. On the one hand, a federal court lacks jurisdiction to review the decision "where it simply disagrees with the result obtained in an otherwise valid proceeding." *Ibid.* A void judgment, on the other hand, "is one which, from its inception, was a complete nullity and without legal effect." *Ibid.* (quoting *Lubben* v. *Selective Serv. Sys. Local Bd. No. 27*, 453 F.2d 645, 649 (1st Cir. 1972)).[2] And *Rooker–Feldman* does not strip the federal courts of jurisdiction in the latter context.

3. Other circuits have either held or suggested that the void *ab initio* exception applies only when the state court lacked jurisdiction because of a stay issued by a federal bankruptcy court, but not when the underlying order is void *ab initio* in non-bankruptcy cases.

For instance, the Ninth Circuit has recognized, in certain bankruptcy cases, "[a]n exception to *Rooker-Feldman* . . . when the state proceeding is a legal nullity and void *ab initio*." *In re Pavelich*, 229 B.R. 777, 783 (9th Cir. B.A.P. 1999); see also *In re Gruntz*, 202 F.3d 1074, 1083 (9th Cir. 2000) ("[T]he *Rooker–Feldman* doctrine is not implicated by collateral challenges to the automatic stay in bankruptcy."). In other types of cases, however, the

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[2] In reviewing a habeas corpus challenge, under 28 U.S.C. 2254, to a state criminal conviction, the Third Circuit later suggested that "*In re James* differs from this case (and most cases) because the state court's jurisdiction, or lack thereof, was a function of federal law (the federal bankruptcy statute)." *Lambert* v. *Blackwell*, 387 F.3d 210, 240 n.25 (3d Cir. 2004). Yet because this later Third Circuit case did not involve *Rooker–Feldman* as such, this statement is dicta as to the scope of *Rooker–Feldman*.

Ninth Circuit applies the doctrine even "where the plaintiff in federal court claims that the state court did not have jurisdiction to render a judgment." *Doe* v. *Mann*, 415 F.3d 1038, 1043 n.6 (9th Cir. 2005) (challenge to state termination of parental rights).

The Fifth, Seventh, and Tenth Circuits have also suggested that they distinguish between bankruptcy and non-bankruptcy proceedings. The Fifth Circuit has stated that the *ab initio* exception "is presently limited to the bankruptcy context." *Houston* v. *Bennett Queen*, 606 F. App'x 725, 733 (5th Cir. 2015). The Seventh Circuit has opined that the exception "might" be appropriate in bankruptcy cases, but "has no place" in other cases. *Schmitt* v. *Schmitt*, 324 F.3d 484, 487 (7th Cir. 2003). And the Tenth Circuit has declined to adopt the exception because the case did not involve bankruptcy. See *Anderson* v. *Private Capital Grp., Inc.*, 549 F. App'x 715, 717 (10th Cir. 2013) (declining "to adopt the void ab initio exception in this non-bankruptcy context").

* * *

In sum, the circuits are split three ways on whether and to what extent *Rooker–Feldman* applies to state-court judgments that are void *ab initio*. The split has been acknowledged by multiple courts; has persisted for nearly three decades; and has arisen in bankruptcy and non-bankruptcy cases alike. The issue is ripe for the Court's review.

B. This case presents a good vehicle to resolve the circuit split.

Not only does the circuit split warrant this Court's review, but this case presents a good vehicle for the Court to resolve it.

First, the issue is clearly presented. Petitioners argued to the court of appeals that *Rooker–Feldman* did not

apply "because the orders of probation are not valid orders because a judge did not sign the documents ordering them to pay probation fees." App. 6a. But the court of appeals nonetheless held that it was powerless to consider even the basic validity of the judgment at issue. App. 7a–8a.

Second, the case arrives in the context of a final judgment dismissing the case, issued with the benefit of a complete record following fact discovery. Thus, the factual basis for Petitioners' argument that the state-court judgment was void *ab initio* is clear and well-documented: The purported probation orders were signed and distributed by employees of a private contractor and were neither reviewed, approved, or signed by an actual judge.

Third, the factual record highlights that if *Rooker–Feldman* does not apply to state judgments that are void *ab initio*, then it would not apply here. It is difficult to imagine a clearer example of a null state-court judgment than one that was not actually approved or signed by a judge, and that was instead unilaterally issued and signed by an employee of a private contractor. Needless to say, Alabama law states that a defendant's municipal-court probation may be supervised by a private company only upon an order issued by a judge. See Ala. R. Crim. P. 27.1; Dist. Ct. Dkt. 24-1 (1997 Ala. Op. of Attorney General No. 98-00043); see also 204 Ala. Op. Att'y Gen. 18 (Oct. 29, 1986), 1986 WL 80077, at *1 ("The Alabama Rules of Criminal Procedure require that the judgment by the court be pronounced in open court and then reduced in writing and be signed by the judge.").

Finally, although the district court would have also dismissed Petitioners' unjust-enrichment claims on alternative grounds (that Petitioners' claims are barred by Alabama's "voluntary payment doctrine"), the Eleventh

Circuit did not address that merits question after concluding that *Rooker–Feldman* divested the court of jurisdiction to address Petitioners' claims on the merits. On the merits, Petitioners presented significant evidence that, under the circumstances, the payment of fines and fees was anything but voluntary—evidence that, in the posture of summary judgment, must be viewed in the light most favorable to Petitioners. See, *e.g.*, App. 21a (JCS employees threated to have Petitioner Thurman arrested if she did not bring at least $5 to an appointment); Dist. Ct. Dkt. 97-5 at 61:15–62:13 (at one appointment, Thurman saw another woman threatened with arrest if she did not pay $332). Indeed, the only judge on the Eleventh Circuit panel to reach the merits concluded that the claims were not barred by the voluntary payment doctrine. App. 14a–15a. As a result, reversal of the Eleventh Circuit's judgment with respect to *Rooker–Feldman* would likely affect the case's ultimate outcome.

II. The Eleventh Circuit's decision was incorrect and the issue is recurring and important.

The Court's review is further warranted because the Eleventh Circuit's decision was wrong, and because the question is both important and likely to recur.

A. The Eleventh Circuit's decision was incorrect. As articulated by this Court, *Rooker–Feldman* does not apply to state-court judgments that are void *ab initio*.

In *Rooker*, this Court held that federal district courts have no jurisdiction to hear lawsuits that challenge or seek reversal of the judgments of state courts. See 263 U.S. at 415–416. Any such review, the Court explained, would be an impermissible "exercise of appellate jurisdiction." *Id.* at 416.

Yet before upholding the dismissal of the plaintiffs' lawsuit, the Court also considered the plaintiffs' argument

that the state court lacked jurisdiction to issue the underlying judgment. And rather than immediately concluding that the jurisdictional bar necessarily applied in those circumstances, the Court distinguished between state-court judgments issued without jurisdiction and state-court judgments to be reviewed on the merits: "Some parts of the bill speak of the judgment as given without jurisdiction and absolutely void: but this is merely mistaken characterization." *Ibid.* After reviewing the state-court judgment, the Court concluded that—"indubitably"—"there was full jurisdiction in the state courts and that the bill at best is merely an attempt to get rid of the judgment for alleged errors of law committed in the exercise of that jurisdiction." *Ibid.*; see also *id.* at 417 (addressing the argument in more detail). And the Court has since reiterated that in *Rooker*, "[t]his Court noted preliminarily that the state court had acted within its jurisdiction." *Exxon Mobil Corp.*, 544 U.S. at 284.

More generally, the Court has observed that *Rooker–Feldman* is narrow and has instructed lower courts to avoid applying it too broadly. In *Lance*, the Court explained that "[n]either *Rooker* nor *Feldman* elaborated a rationale for a wide-reaching bar on the jurisdiction of lower federal courts, and our cases since *Feldman* have tended to emphasize the narrowness of the *Rooker–Feldman* rule." 546 U.S. at 464. Applying the doctrine too broadly, the Court has warned, would "overrid[e] Congress' conferred of federal-court jurisdiction concurrent with jurisdiction exercised by state courts, and supersed[e] the ordinary application of preclusion law." *Exxon Mobil Corp.*, 544 U.S. at 283. In fact, "[s]ince *Feldman*, this Court has never applied *Rooker–Feldman* to dismiss an action for want of jurisdiction." *Id.* at 287.

Nor would reviewing void *ab initio* judgments implicate *Rooker–Feldman*'s rationale. When, as here, the

state-court has not actually acted, or when the state has acted without jurisdiction, the need for deference diminishes sharply if not entirely. As the Third Circuit explained, because "a void judgment is null and without effect, the vacating of such a judgment is merely a formality and does not intrude upon the notion of mutual respect in federal-state interests." *James*, 940 F.2d at 52.

B. In addition, there is no principled basis, as several circuits have posited, to limit the *ab initio* exception to bankruptcy cases only. Courts that limit the *ab initio* exception to bankruptcy cases typically do so "to protect the dominant federal role in that specialized area of the law." *Schmitt*, 324 F.3d at 487. But *Rooker–Feldman* doctrine is a concrete jurisdictional rule, not an amorphous balancing test; and a state-court judgment is either void *ab initio* or not. Nothing in *Rooker*, *Feldman*, or their kin suggests that federal courts may exempt certain classes of cases: If *Rooker–Feldman* does not apply to *ab initio* state-court judgments in bankruptcy cases, then it does not apply to *ab initio* state-court judgments in other types of cases.

To be sure, the lack of state-court jurisdiction may be clearer in bankruptcy cases if a state court issues a judgment despite an automatic stay from the federal bankruptcy court. See *Ark. Chron.* v. *Easley*, 321 F. Supp. 2d 776, 789 n.20 (E.D. Va. 2004) ("Of course, the void *ab initio* status of a state court judgment may be more readily apparent in bankruptcy cases, where federal jurisdiction is exclusive rather than concurrent.). But that should not prevent courts from exercising jurisdiction in non-bankruptcy cases when—as here—the *ab initio* status is equally clear. See *id.* at 789 ("Although this principle has thus far found judicial expression only in bankruptcy cases, there is no reason in principle it should not apply in other contexts, provided it is one of those rare cases where

the want of jurisdiction is glaringly apparent.").

C. Finally, the question presented is significant and likely to recur. For one, and as detailed above in Section I.A, the circuit split implicates state-court judgments that affect federal bankruptcy cases. And *ab initio* state-court judgments can and do arise in other circumstances as well.

Indeed, the circumstances of this case are not unique. Private contractors increasingly play major roles in state criminal-justice systems, thus creating ongoing risks that defendants will receive *ab initio* orders that are not issued by an actual state-court judge.

For example, of the more than 40,000 probation orders issued by JCS in Alabama, more than 13,000 were not signed by a judge. Dist. Ct. Dkt. 113-1. And companies like JCS operate throughout the country. See, e.g., Human Rights Watch, *"Set up to Fail": The Impact of Offender-Funded Private Probation on the Poor* 31–34 (2018), https://perma.cc/DDH2-SHRE (identifying major private probation companies operating in Florida, Kentucky, Missouri, and Tennessee); Andrew Cohen, *The Private Probation Problem is Worse Than Anyone Thought*, Atlantic (Feb. 5, 2014), https://perma.cc/2UA3-ZT4V (describing actual and potential abuses committed by private probation companies in Alabama, Georgia, Michigan, Mississippi, Missouri, and Montana); Jon Fasman, *A Judicially Sanctioned Extortion Racket*, Economist (Jan. 20, 2014), https://perma.cc/G7GD-D7QD; see generally Christine S. Schloss & Leanne F. Alarid, *Standards in the Privatization of Probation Services: A Statutory Analysis*, 32 Crim. J. Rev. 233 (2007).

But in the Eleventh Circuit, and in several other circuits across the country, a purported probation order issued by one of these companies without any review, ap-

proval, or signature by a state-court judge would be immune from challenge in the federal courts—even though the state-court judgment was not bona fide in any meaningful sense of the phrase.

Whether and to what extent preclusion or other nonjurisdictional rules might prevent some of these cases from being heard in federal court, an ironclad jurisdictional bar would flout the limits on *Rooker–Feldman* doctrine, our system of dual sovereignty, and the basic rule of law. These circumstances warrant this Court's review.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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APRIL 2019

APPENDICES

APPENDIX A

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-14450

D.C. Docket No. 2:12-cv-00724-RDP-TFM

LINDA THURMAN and COURTNEE CARROLL,

Plaintiffs-Appellants,

versus

JUDICIAL CORRECTION SERVICES, INC., and CORRECTIONAL HEALTHCARE COMPANIES, INC.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Alabama

(January 10, 2019)

Before WILLIAM PRYOR, MARTIN, and BALDOCK,[*] Circuit Judges.

BALDOCK, Circuit Judge:

Plaintiffs-Appellants Linda Thurman and Courtnee Carroll appeal from the district court's denial of their motion for partial summary judgment and grant of Defendants-Appellees Judicial Correctional Services, Inc. (JCS) and Correctional Healthcare Companies, Inc.'s motion for summary judgment. After careful review, we affirm the district court.

At issue in this case is whether the *Rooker-Feldman* doctrine proscribes our jurisdiction to consider invalidating state court probation orders directing Plaintiffs Courtnee Carroll and Linda Thurman to pay fines and fees for misdemeanors. We review de novo the application of the *Rooker-Feldman* doctrine. *Lozman v. City of Riviera Beach*, 713 F.3d 1066, 1069–70 (11th Cir. 2013). Under the *Rooker-Feldman* doctrine, federal district courts generally lack jurisdiction to review a final state court decision. *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fidelity Tr. Co.*, 263 U.S. 413 (1923).

I.

A. Plaintiff Courtnee Carroll

In April 2010, Plaintiff Courtnee Carroll received three tickets in Montgomery for failing to use a child restraint, switching tags, and driving without a license. In May 2010, Carroll pleaded guilty to all charges. The municipal court imposed $25 fines for the first two offenses and a $75 fine for the latter offense. The court also

[*] Honorable Bobby R. Baldock, United States Circuit Judge for the Tenth Circuit, sitting by designation.

imposed $113 in court costs for each offense. Rather than pay the fees and fines in full at one time, Carroll opted for a payment plan.

The court's order regarding the three tickets state that the court referred Carroll to JCS. On May 14, 2010, Carroll signed an "Order of Probation" issued on the municipal court's letterhead. The order placed Carroll on probation for twelve months and directed her to pay a $10 set-up fee and a $40 per month fee to JCS while on probation. The order also directed her to pay fees and costs totaling $805 at the rate of $140 per month.

Along with the financial obligations, the order of probation directed Carroll to report to her probation officers as instructed and report any changes in residence or employment. The order instructed Carroll to work during her probation unless she was a full-time student. The order warned Carroll that she could be arrested for violating the terms of her probation and that her probation could be revoked upon any such violation.

Carroll and a JCS employee each signed the order but the signature block for the municipal court judge remained blank. A separate JCS document entitled "Reporting for Probation" instructed Carroll not to contact the court with any questions about her case but to contact her probation officer. Carroll did not appeal the obligations set forth in the order of probation in state court and, instead, Carroll paid off her financial obligations in January 2011.

B. Plaintiff Linda Thurman

In January 2012, Plaintiff Linda Thurman received a citation in Montgomery for failing to possess or display insurance. The municipal court ordered Thurman to pay $279 in court costs for this offense. Rather than pay the costs in full at one time, Thurman opted for a payment

plan. On February 10, 2012, Thurman signed an "Order of Probation" issued on the municipal court's letterhead. The order directed Thurman to pay $279 in court costs for her infraction and to pay $140 per month on any amount she owed. The order contained the same probation conditions as those in Carroll's order, including the obligation to pay JCS a $10 set-up fee and $40 per month while on probation. Thurman and a JCS employee signed the order of probation. Municipal court Judge Hayes's last name was handwritten on the order, along with a set of initials. Thurman did not appeal the obligations set forth in the order of probation in state court. In August 2012, Thurman paid off her financial obligations under the probation order. Like Carroll, Thurman also received a JCS document entitled "Reporting for Probation" instructing her not to contact the court with any questions about her case but to contact her probation officer.

C. District Court Proceedings

In February 2013, Plaintiffs filed their second amended complaint as a putative class action alleging both diversity and federal question jurisdiction. As relevant on appeal, Plaintiffs asked the district court to declare: (1) JCS violated state and federal law by commanding probationers to pay fines and fees pursuant to documents that were not lawful orders of probation; (2) JCS violated state and federal law by commanding or coercing money payments from individuals above the relevant statutory maximums; (3) JCS violated state and federal law by imposing probation for periods longer than the relevant statutory maximums; (4) JCS was unjustly enriched by its conduct; and (5) JCS obstructed justice and violated Plaintiffs' equal protection rights. In addition to Plaintiffs' request for declaratory judgment, Plaintiffs claimed JCS was unjustly enriched by their collection of fees without

authority and should be ordered "to disgorge the ill-gotten gains."

In a thorough written order, the district court dismissed without prejudice Plaintiffs' unjust enrichment claim and their request for the court to declare JCS's administration of purportedly unlawful orders of probation to be unlawful because the court lacked subject-matter jurisdiction under the Rooker-Feldman doctrine. Regarding the Plaintiffs' request for declaratory relief, the court explained,

> [T]he *Rooker-Feldman* doctrine bars the court from considering the Plaintiffs' request to declare JCS's administration of purportedly unlawful orders of probation to be unlawful. . . . [T]his request for declaratory relief expressly rests on JCS's enforcement of state court orders and requires the court to find that those orders "are not lawful orders of probation." This court lacks subject-matter jurisdiction to review and reject those state court orders.

Regarding the unjust enrichment claims, the district court determined they were also barred by the *Rooker-Feldman* doctrine:

> Plaintiffs' unjust enrichment claim, which is premised on the assertion that JCS received "ill-gotten gains" from collecting monies under the orders of probation, cannot be considered by the court under *Rooker-Feldman* either. For the court to conclude that JCS's fees were ill-gotten gains, it would necessarily have to find that the orders of probation did not authorize JCS to collect those fees because they were nullities. Accordingly, the claim ultimately asks the court to review and reject orders of probation that

> purportedly justified JCS's collection of monies from Carroll and Thurman. This the court cannot do.

In the alternative, the district court held the Alabama Voluntary Payment doctrine barred Plaintiffs' unjust enrichment claim. The district court determined Plaintiffs failed to present a triable issue whether JCS obtained the probation fees through fraud, duress, or improper pressure. Accordingly, the district court found Plaintiffs' claim failed as a matter of law.

II.

A. *Rooker-Feldman* Doctrine

We first turn to whether the district court erred in holding the *Rooker-Feldman* doctrine applies to bar Plaintiffs' claim for unjust enrichment and request for a declaratory judgment. Plaintiffs contend *Rooker-Feldman* does not apply for two reasons. First, Plaintiffs contend they are not seeking review of a state court decision. Second, Plaintiffs argue Defendants obstructed access to meaningful state court review.

1. Are Plaintiffs' orders of probation state court orders?

First, Plaintiffs contend the district court erred in concluding the *Rooker-Feldman* doctrine barred their claims because they are not seeking review of a state court decision. Plaintiffs contend the orders of probation are not valid orders because a judge did not sign the documents ordering them to pay probation fees. Plaintiffs conclude, if the orders are not signed by a judge, they are incomplete and therefore cannot be final judgments subject to *Rooker-Feldman*. In response, Defendants contend *Rooker-Feldman* applies because Plaintiffs' claims require this Court to determine whether the orders of

probation were valid based on Alabama state law, which is precisely the action the *Rooker-Feldman* doctrine proscribes.

Under the *Rooker-Feldman* doctrine, federal district courts lack jurisdiction to adjudicate the validity of a state court order. *Feldman*, 460 U.S. at 482. The doctrine "prevents the lower federal courts from exercising jurisdiction over cases brought by 'state court losers' challenging 'state-court judgments rendered before the district court proceedings commenced.'" *Lance v. Dennis*, 546 U.S. 459, 460 (2006) (quoting *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005)). The doctrine bars federal jurisdiction "where the issue before the federal court [i]s 'inextricably intertwined' with the state court judgment so that (1) the success of the federal claim would 'effectively nullify' the state court judgment, or that (2) the federal claim would succeed 'only to the extent that the state court wrongly decided the issues.'" *Alvarez v. Attorney Gen. of Fla.*, 679 F.3d 1257, 1262–63 (11th Cir. 2012) (quoting *Casale v. Tillman*, 558 F.3d 1258, 1260 (11th Cir. 2009)).

By all appearances, the probation orders Plaintiffs seek to invalidate are state court orders. The documents are titled "Order of Probation." The documents are printed on "Municipal Court of Montgomery, AL" letterhead. The documents state, "by virtue of the authority vested in me as a Municipal Court Judge . . . I hereby order." Plaintiffs signed the documents acknowledging they "received a copy of this ORDER." And perhaps most critically, Plaintiffs conceded at oral argument that if the probation orders were signed by a judge, the orders would be valid probation orders.

Plaintiffs' request for declaratory relief and claim for unjust enrichment expressly rest on Defendants' enforcement of state court orders and require this Court to

conclude that those orders are not lawful orders of probation without a signature. Such a request is precisely what *Rooker-Feldman* proscribes because it "complain[s] of injuries caused by state-court judgments and invite[s] . . . review and rejection of those judgments." *May v. Morgan Cty.*, 878 F.3d 1001, 1005 (11th Cir. 2017) (quoting *Exxon Mobil*, 544 U.S. at 284) (quotations omitted). We need not peer into Alabama law to determine whether an order must be signed to be valid because the *Rooker-Feldman* doctrine bars federal courts from adjudicating the validity of state court orders. *See, e.g., Target Media Partners v. Specialty Mktg. Corp.*, 881 F.3d 1279, 1291 (11th Cir. 2018) (explaining that a district court must apply the *Rooker-Feldman* doctrine where the plaintiffs "ask[] to have a state-court order 'declared null and void'" (quoting *Rooker*, 263 U.S. at 414)). Plaintiffs' claims are "inextricably intertwined" with the state court probation orders so that the success of Plaintiffs' federal claims would effectively nullify the state court orders. *Feldman*, 460 U.S. at 486. Accordingly, the district court properly held it lacked subject-matter jurisdiction under the *Rooker-Feldman* doctrine.

2. Did Plaintiffs have a reasonable opportunity to raise their federal claim in state court?

Next, we must determine whether Plaintiffs had a reasonable opportunity to raise their federal claim in state court. Plaintiffs argue *Rooker-Feldman* is not applicable because JCS obstructed Plaintiffs' access to state court review when JCS included the following language in its "Reporting for Probation" document: "The following person will be your probation officer. All questions concerning your case should be directed to him/her. Do not contact the Municipal Court they will be unable to help you." Plaintiffs argue this language discouraged Plaintiffs from contacting the municipal court and was "tantamount to a

warning not to file an appeal with it." In response, Defendants argue the statement was not designed to discourage an appeal but rather to communicate that JCS was better-positioned to answer the probationer's questions about probation. Defendants argue further, even if the evidence supported "discouragement," discouraging the exercise of legal process does not establish that the discouraged party lacked meaningful access to the process.

Under the *Rooker-Feldman* doctrine, lower federal courts "may not decide federal issues that are raised in state court proceedings and 'inextricably intertwined' with the state court's judgment." *Wood v. Orange Cty.*, 715 F.2d 1543, 1546 (11th Cir. 1983). The doctrine "also operates where the plaintiff fails to raise his federal claim in state court" if "the plaintiff had a reasonable opportunity to raise his federal claim in state court proceedings. *Id.* at 1546–47. "[W]hen a party did not have a chance to raise its federal claim in state court, such claim 'is not "inextricably intertwined" with the state court's judgment.'" *Seminole Tribe of Fla. v. Fla., Dep't of Revenue*, 917 F. Supp. 2d 1255, 1259 (S.D. Fla. 2013), *aff'd on other grounds*, 750 F.3d 1238 (11th Cir. 2014) (quoting *Wood*, 715 F.2d at 1547). Put another way, the *Rooker-Feldman* doctrine bars claims that "were or could have been decided by the state court." *Target Media Partners*, 881 F.3d at 1288 (citing *Goodman ex rel. Goodman v. Sipos*, 259 F.3d 1327, 1334 (11th Cir. 2001)).

Here, Plaintiffs do not assert that they did not have a chance to present their claims in state court or that their claims could not have been decided by a state court. They merely contend the language in the document from JCS "was effectively suppressive." Plaintiffs failed to explain how the instruction, "Do not contact the Municipal Court they will be unable to help you," deprived them of a reasonable opportunity to contest the probation fees, given

that the instruction—and the document more broadly—makes no reference to a probationer's ability to appeal, let alone a state court's ability to decide such an appeal. Instead, the document instructs probationers to report to JCS offices to meet with his or her probation officer, identifies the probation officer, and provides the date, time, and amount of fees and fines due at the appointment. Reading the instruction in this context makes clear the instruction is about contacting a probation officer with questions, not about a probationer's opportunity to appeal the conditions of one's probation.

Plaintiffs failed to raise their challenge to the probation fees on direct appeal and now belatedly attempt to litigate their claim in federal court by relying on language in a document that does not address whether the claim "could have been decided by the state court." *Target Media Partners*, 881 F.3d at 1288. Plaintiffs are "just the sort of 'state-court loser[]' the *Rooker-Feldman* doctrine was designed to turn aside." *Casale*, 558 F.3d at 1261 (citing *Exxon*, 544 U.S. at 284). "If [Plaintiff] believed the state court's result was based on a legal error, the proper response was the same one open to all litigants who are unhappy with the judgment of the trial court: direct appeal." *Id.* Because Plaintiffs had a reasonable opportunity to raise their challenge to probation fees in Alabama's state courts, the *Rooker-Feldman* doctrine bars this suit.[1]

AFFIRMED.

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[1] Plaintiffs also contend the district court erred in finding, in the alternative, the Alabama Voluntary Payment doctrine barred Plaintiffs' unjust enrichment claims. Given the district court did not have subject-matter jurisdiction to resolve Plaintiffs' claims because the *Rooker-Feldman* doctrine bars both the request for declaratory relief and the unjust enrichment claim, we do not reach the state law question of whether the voluntary payment doctrine prevents Plaintiffs' recovery for the payments Plaintiffs made to Defendants.

MARTIN, Circuit Judge, dissenting:

Judicial Correction Services ("JCS") instructed Plaintiffs Linda Thurman and Courtnee Carroll: "All questions concerning your case should be directed to [your probation officer]. **Do not contact the Municipal Court** they will be unable to help you." (emphasis in original) Ms. Thurman and Ms. Carroll got this instruction after JCS imposed a $40 per month probation fee and a $10 account set-up fee—all to be pocketed by JCS—on top of fines and court costs imposed on them because of their traffic violations. Even in light of this directive, the Majority opinion says Ms. Thurman and Ms. Carroll had a "reasonable opportunity" to challenge JCS's imposition of fees in their respective state court proceedings. Maj. Op. at 9–11. I don't think this is so. I view JCS (an agent of the Municipal Court) as having obstructed Ms. Thurman's and Ms. Carroll's access to state court review. For that reason, I would not apply the *Rooker–Feldman* doctrine to bar their claims in federal court. I would reverse the District Court's dismissal of Plaintiffs' claims, and I respectfully dissent from the Majority's ruling to the contrary.

The Majority opinion recognizes that the *Rooker–Feldman* doctrine does not bar a federal court's jurisdiction over a claim if a plaintiff had no "reasonable opportunity to raise [her] federal claim in state proceedings." *Wood v. Orange Cty.*, 715 F.2d 1543, 1547 (11th Cir. 1983); *see also Powell v. Powell*, 80 F.3d 464, 467 (11th Cir. 1996) (explaining that a federal claim is not "inextricably intertwined" with a state court judgment when a plaintiff lacked a reasonable opportunity to raise a claim in state court). I have found no opinion in which this Circuit details what circumstances amount to a reasonable opportunity, but our cases generally look to whether a party had a reasonable chance to present claims in initial state

proceedings or on appeal. *See, e.g., Goodman ex rel. Goodman v. Sipos*, 259 F.3d 1327, 1334 (11th Cir. 2001) ("The plaintiffs were both parties to the state court proceeding, and . . . they were present and participated in the state court proceedings."); *Dale v. Moore*, 121 F.3d 624, 627 (11th Cir. 1997) (per curiam) (concluding a plaintiff had a reasonable opportunity to assert disability discrimination claims against the Florida Bar in state court where the Bar's rules permitted him to petition the Florida Supreme Court).

The Majority opinion rejects Ms. Thurman and Ms. Carroll's argument that JCS's command thwarted their opportunities to pursue their claims in state court. Maj. Op. at 10–11. First, the Majority suggests it is enough that Ms. Thurman's and Ms. Carroll's claims "could" have been decided by the Municipal Court. Maj. Op. at 11. But this overlooks the fact that our Circuit has not treated every opportunity to bring a claim in state court as one that is reasonable for purposes of *Rooker–Feldman*. For example, *Biddulph v. Mortham*, 89 F.3d 1491 (11th Cir. 1996) (per curiam), concluded that *Rooker–Feldman* did not bar a plaintiff's federal claim even though the Florida Supreme Court denied mandamus relief on the very same claim. *Id.* at 1495 n.1. The *Biddulph* opinion reasoned "the state mandamus proceeding did not afford [the plaintiff] the kind of 'reasonable opportunity' to raise his federal claim that would preclude our independent review of that claim" because the state court grants mandamus relief only under very limited circumstances. *Id.* That Mr. Biddulph technically had his day in state court was not enough to deprive him of jurisdiction in federal court.

Also, in *Wood v. Orange County*—a decision issued only months after *Feldman*—this Court determined *Rooker* did not preclude a federal court from entertaining jurisdiction over claims related to liens imposed in state

court. 715 F.2d at 1544, 1548. Orange County and its comptroller urged that the plaintiffs had a reasonable opportunity to challenge the judgment resulting in the liens, even though the plaintiffs had no actual knowledge of the judgment until well after the time for filing an appeal. *Id.* at 1548. This Court declined to say the plaintiffs had constructive knowledge of the judgment, and concluded they lacked a reasonable opportunity to appeal because they had no actual notice until the time to appeal had already expired. *Id.* The Majority cites *Wood*, see Maj. Op. at 10, but seems to ignore its import. I read the Majority opinion here to replace the "reasonableness" inquiry established in our Circuit's earlier cases with a too-rigid test that focuses solely on the technical availability of state court remedies.

Second, the Majority contends "context" demonstrates the do-not-contact instruction "is about contacting a probation officer with questions, not about a probationer's opportunity to appeal the conditions of one's probation." Maj. Op. at 11. Like Ms. Thurman and Ms. Carroll, I see it differently. Ms. Thurman and Ms. Carroll were told that "all questions concerning [their] case[s]" were to be directed to their respective probation officers, not to the Municipal Court. Unlike the Majority, I read "all" to mean "all." In my view, this instruction necessarily encompasses inquiries related to the appeal process.

On this record, I don't believe Ms. Thurman and Ms. Carroll were afforded reasonable opportunities to challenge JCS's imposition of fees. The instruction they received from JCS—the self-avowed agent of the Municipal Court charged with supervising their terms of probation—told them in no uncertain terms "[d]o not contact the Municipal Court." This message was both bolded and underlined for emphasis. And all the while, the Municipal Court was the very institution Ms. Thurman and Ms.

Carroll needed to contact to challenge anything appearing on their "Orders of Probation." They could not have presented their claims to the Municipal Court without violating the emphatic instruction given by JCS.

True enough, no one barred Ms. Thurman and Ms. Carroll from defying JCS's instruction. But Ms. Thurman and Ms. Carroll say they understood JCS's command to mean they could not reach out to the Municipal Court for any reason, including to challenge JCS's fees. And because JCS acted on behalf of the Municipal Court when supervising Plaintiffs' terms of probations, Plaintiffs could have reasonably believed its directives flowed from the Municipal Court itself. *Cf. Long v. Shorebank Dev. Corp.*, 182 F.3d 548, 558 (7th Cir. 1999) ("Typically, either some action taken by the state court or state court procedures in place have formed the barriers that the litigants are incapable of overcoming in order to present certain claims to the state court."). If "Orders of Probation" issued by JCS are equal to orders of the Municipal Court, as the Majority opinion suggests, then why aren't instructions given by JCS similarly equal to instructions of the Municipal Court? By demanding that Ms. Thurman and Ms. Carroll steer clear of the Municipal Court, JCS thwarted the opportunities these women had for state court review. For this reason, I would hold that the *Rooker–Feldman* doctrine does not bar a federal court from hearing their claims, and I respectfully dissent from the Majority's decision to the contrary.

The District Court made the alternative ruling that JCS is entitled to summary judgment on Ms. Thurman and Ms. Carroll's unjust enrichment claim under the voluntary payment doctrine. The Majority opinion here concluded *Rooker–Feldman* barred their action in any event, so it did not address the voluntary payment issue. Maj. Op. at 12. n.1 For my part, I would decline to apply the

Alabama voluntary payment doctrine to bar the claim. Under Alabama law, a payment is voluntary only if it was "made by a person of his own motion, without compulsion; . . . without a mistake of fact or fraud, duress, coercion, or extortion, on a demand which is not enforceable against the payor.'" *Mt. Airy Ins. Co. v. Doe Law Firm*, 668 So. 2d 534, 538 (Ala. 1995) (quoting 70 C.J.S. *Payment* § 100 (1987)); *see also CIT Commc'n Fin. Corp. v. McFadden, Lyon & Rouse, L.L.C.*, 37 So. 3d 114, 128 (Ala. 2009) ("[I]t is well settled that money voluntarily paid under a mistake of fact may be recovered, even where the party paying had means of ascertaining the real facts" (citation and quotation marks omitted)). I read the allegations made by Ms. Thurman and Ms. Carroll and the record before this Court to at least raise an issue of material fact about whether they made their payments based on a mistake of fact. *Cf. Sykes v. Sykes*, 78 So. 2d 273, 276 (Ala. 1954) ("The averments of the complaint clearly indicate that complainant paid out moneys for the benefit and protection of real estate in the belief that she was the equitable owner of the property and, therefore, had an interest to protect. The contention that the bill shows her to be a mere volunteer is without merit."). As I view the record, Ms. Thurman and Ms. Carroll certainly could have been under the mistaken impression the Municipal Court—and not JCS—had selected and imposed the fees they were required to pay to JCS. For this reason, I would reverse the District Court's ruling on this issue as well.

I respectfully dissent to the holding of the Majority.

APPENDIX B

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION

LINDA THURMAN, et al.,

Plaintiffs,

v.

JUDICIAL CORRECTION SERVICES, INC., et al.,

Defendants.

(Case No.: 2:12-cv-00724-RDP-TFM)

MEMORANDUM OPINION

This case is before the court on Defendants' Motion to Dismiss Second Amended Complaint (Doc. # 49), Plaintiffs' Motion for Partial Summary Judgment (Doc. # 85), and Defendants' Motion for Summary Judgment (Doc. # 109). The motions have been fully briefed. (*See* Docs. # 52, 99, 104, 116, 118). The court held oral argument for the motions on July 24, 2017. After careful review of the parties' submissions and the Rule 56 record, the court concludes that while Plaintiffs' motion for partial summary judgment is due to be denied, Defendants' motion for summary judgment is due to be granted.[1]

[1] Based upon the court's ruling on Defendants' motion for summary judgment, their motion to dismiss the complaint is now moot.

I. Procedural History

In Plaintiffs' Second Amended Complaint, Plaintiffs Linda Thurman and Courtnee Carroll raise four categories of claims against Defendants Judicial Correction Services, Inc. ("JCS") and Correctional Healthcare Companies, Inc. ("CHC"). (*See* Doc. # 53 at ¶¶ 30-41). First, Plaintiffs claim that they are entitled to declaratory judgments against Defendants. (*Id.* at ¶ 32). Specifically, Plaintiffs ask the court to declare that: (1) JCS violated state and federal law by commanding probationers to pay fines and fees pursuant to documents that were not lawful orders of probation; (2) JCS violated state and federal law by commanding or coercing monetary payments from individuals above the relevant statutory maximums; (3) JCS violated state and federal law by imposing probation for periods longer than the relevant statutory maximum; (4) JCS was unjustly enriched by its conduct; and (5) JCS obstructed justice and violated Plaintiffs' equal protection rights. (*Id.*). Second, Plaintiffs allege that Defendants were unjustly enriched by their collection of fees without legal authority and "should be ordered to disgorge the ill-gotten gains." (*Id.* at ¶ 35). Third, they allege that Defendants unlawfully obstructed the administration of law, in violation of Alabama Code § 13A-10-2, by warning the named Plaintiffs to not contact the municipal court about probation matters. (*Id.* at ¶¶ 20, 39-41). Finally, Plaintiffs allege that Defendants violated their rights under the Equal Protection Clause of the Fourteenth Amendment. (*Id.* at ¶¶ 40-41).

In January 2013, Defendants filed a motion to dismiss the Second Amended Complaint. (Doc. # 49). In that motion, Defendants argue that: (1) the Second Amended Complaint fails to state a claim for relief; (2) the Second Amended Complaint fails to allege a causal connection between Defendants' conduct and Plaintiffs' alleged

injuries; (3) Defendants are entitled to absolute quasi-judicial immunity; (4) JCS did not act under the color of state law; and (5) the Second Amended Complaint does not plead fraud with particularity. (*See generally* Doc. # 50).

In April 2013, Plaintiffs filed a motion for partial summary judgment. (Doc. # 85). In their summary judgment motion, Plaintiffs seek a declaratory judgment that JCS was not authorized to collect probation fees from orders that had not been signed by a municipal court judge. (*See id.* at 2). In turn, Defendants filed a motion for summary judgment in September 2013. (Doc. # 109).

II. Factual Background[2]

Plaintiffs' claims arise from their traffic cases before the Municipal Court for Montgomery, Alabama ("Municipal Court"). The court addresses the material facts regarding each Plaintiff's claims, in turn.

A. Courtnee Carroll

In April 2010, Montgomery police issued three tickets to Plaintiff Carroll for failing to use a child restraint, switching tags, and driving without a license. (*See* Doc. # 99-14 at 2, 5, 8). When Carroll received the tickets, she called the Municipal Court and asked them how much she would be required to pay for the tickets. (Doc. # 85-3 at 6-

[2] The facts set out in this opinion are gleaned from the parties' submissions of facts claimed to be undisputed, their respective responses to those submissions, and the court's own examination of the evidentiary record. All reasonable doubts about the facts have been resolved in favor of the nonmoving party. *See Info Sys. & Networks Corp. v. City of Atlanta*, 281 F.3d 1220, 1224 (11th Cir. 2002). These are the "facts" for summary judgment purposes only. They may not be the actual facts that could be established through live testimony at trial. *See Cox v. Adm'r U.S. Steel & Carnegie Pension Fund*, 17 F.3d 1386, 1400 (11th Cir. 1994).

7). A Municipal Court employee told Carroll that she would be required to pay approximately $500 for the three tickets. (*Id.* at 7).

In May 2010, Carroll pled guilty to all three charges. (*See* Doc. # 99-14 at 3, 6, 9). Carroll went to the Municipal Court on the assigned court date. (Doc. # 85-3 at 6). She informed an employee at the Municipal Court's window that she wanted a payment plan, and the employee instructed her to wait by a door. (*Id.* at 9). Carroll has testified that she wanted to admit that she was guilty of the offenses so that she could pay off the fines and not wait. (*Id.* at 10). Moreover, she desired to pay off the fines and fees levied against her. (*Id.*). The Municipal Court imposed $25 fines for the child-restraint and switched-tag offenses and a $75 fine for driving without a license. (*See* Doc. # 99-14 at 3, 6, 9). The Municipal Court also charged Carroll $113 in court costs for each offense. (*See id.*). The Municipal Court's orders regarding the tickets state that it referred Carroll to JCS. (*See id.*) (statement stamped onto the orders).

On May 14, 2010, Carroll signed an "order of probation," issued on the Municipal Court's letterhead. (*See* Doc. # 85-2 at 2). The order placed Carroll on probation for 12 months. (*Id.*). It directed her to pay a $10 set-up fee and a $40 per month fee to JCS. (*Id.*). It also directed her to pay $140 per month towards the amounts she owed to the Municipal Court and JCS. (*Id.*). The order listed the fines and costs Carroll owed for her April 2010 offenses. (*Id.*). But, the probation order also stated that Carroll owed $341 from an earlier case. (*Id.*).

Along with the financial obligations, Carroll's order of probation directed her to report to a probation officer as instructed and to notify the probation officer of any change in residence or employment. (*Id.*). It instructed Carroll to work during her probation, unless she was a

full-time student. (*Id.*). The order warned Carroll that she could be arrested for violating any term of probation and that her probation could be revoked "accordingly." (*Id.*). Carroll and a JCS employee each signed the order. (*Id.*). But, the signature block for the Municipal Court remained blank. (*Id.*).

According to Plaintiffs, Carroll also received a document from JCS with additional probation instructions. (Doc. # 85-4 at 2). JCS's document directed Plaintiff to not contact the Municipal Court. (*See* Doc. # 85-4 at 2) ("Do not contact the Municipal Court they will be unable to help you.") (emphasis in original). Instead, JCS directed Carroll to contact her probation officer, Elizabeth Allen, with any questions. (*Id.*).

Carroll has conceded that no one forced her to sign the probation order. (Doc. # 111-1 at 5). Nor did anyone coerce or command her to make monthly payments to JCS. (*Id.* at 12). But, she has testified that she was unaware of the probation sentence and believed that the forms she signed were "the process of the payment plan." (Doc. # 85-3 at 13). Carroll paid off her financial obligations for the three offenses by January 2011. (*See generally* Doc. # 99-7).

B. Linda Thurman

According to the Municipal Court's electronic records, in January 2012, Plaintiff Thurman received a citation for failing to possess or display insurance. (Doc. # 99-8 at 1-2). Thurman has testified that she was guilty of the offense and agreed to plead guilty to it. (Doc. # 99-3 at 5). She pled guilty to the offense by signing her traffic ticket. (*Id.* at 5-6). Thurman wished to pay the fine imposed by the Municipal Court "over an extended period of time." (*Id.* at 7).

On February 10, 2012, Thurman signed an "order of probation," issued on the Municipal Court's letterhead. (Doc. # 85-11 at 2). The order directed Thurman to pay $279 in court costs for failing to possess or display insurance.[3] (*Id.*). It instructed her to pay $140 per month towards the amount she owed. (*Id.*). It also contained the same probation conditions as those in Carroll's order, including the obligation to pay a one-time fee and monthly fees to JCS. (*Id.*). Thurman and a JCS employee signed the order of probation. (*Id.*). Judge Les Hayes's last name was handwritten into the order, along with a set of initials. (*Id.*).

According to Thurman, she voluntarily agreed to the conditions of probation. (Doc. # 993 at 8-9). Although she agreed to sign the probation order, she recalled that she did not have an opportunity to choose whether to pay the $40 probation fee to JCS. (*Id.* at 9). She did not consider challenging the ticket before one of the Municipal Court's judges. (*Id.* at 10-11).

Thurman has testified that a JCS employee instructed her to bring $35 or $40 with her to scheduled probation appointments. (*Id.* at 7-8). JCS employees threatened to issue arrest warrants against her if she did not bring "at least $5.00" with her to a probation appointment. (*Id.* at 13). Thurman paid off the amounts owed for the citation on August 3, 2012. (Doc. # 99-8 at 1). On that same day, the Municipal Court entered her guilty plea and the sentence against her. (*Id.*).

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[3] The Municipal Court's records state, though, that Plaintiff received a traffic fine of $150. (Doc. # 99-8 at 2). This fine is not reflected in the order of probation.

C. Other Material Facts

Tonia Hamby, a JCS employee, has testified that the Municipal Court had an unwritten policy for placing individuals on probation at the Municipal Court. (Doc. # 99-12 at 5-6). If a defendant appeared at the clerk's window and agreed to be placed on probation with JCS, a JCS intake specialist would sign the defendant up for probation, write the judge's name on the probation order, and initial the order. (*Id.* at 6). Judge Hayes memorialized the Municipal Court's probation policy with JCS in a 2013 standing order. (Doc. # 99-11). The standing order explained that, if the defendant owed less than $250, the Municipal Court would grant a 30-day extension to pay the amount owed. (*Id.*). The Municipal Court placed defendants "with JCS" if they owed less than $1500 to the Municipal Court and requested a payment plan for the amounts owed. (*Id.*). If a defendant owed more than $1500 and requested a payment plan, the Municipal Court held a hearing before a judge to determine whether the defendant should be placed with JCS.[4] (*Id.*). According to the general order, the Municipal Court instituted these policies in June 2009. (*Id.*).

III. Summary Judgment Standard

Under Federal Rule of Civil Procedure 56(c), summary judgment is proper "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no

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[4] Judge Hayes admitted to the Alabama Court of the Judiciary that he had previously "placed some municipal court defendants who appeared before him on what was nominally referred to in the court's order as 'probation' even though they had not received a suspended sentence or any jail time, but had been given only fines and court costs." *In the Matter of: Armstead Lester Hayes III*, 2017 WL 132929, at *2 (Ala. Ct. of the Judiciary Jan. 5, 2017).

genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). The party asking for summary judgment always bears the initial responsibility of informing the court of the basis for its motion and identifying those portions of the pleadings or filings which it believes demonstrate the absence of a genuine issue of material fact. *Id.* at 323. Once the moving party has met its burden, Rule 56(c) requires the non-moving party to go beyond the pleadings and – by pointing to affidavits, or depositions, answers to interrogatories, and/or admissions on file – designate specific facts showing that there is a genuine issue for trial. *Id.* at 324.

The substantive law will identify which facts are material and which are irrelevant. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986) ("*Anderson*"). All reasonable doubts about the facts and all justifiable inferences are resolved in favor of the non-movant. *See Allen v. Bd. of Pub. Educ. For Bibb Cty.*, 495 F.3d 1306, 1314 (11th Cir. 2007); *Fitzpatrick v. City of Atlanta*, 2 F.3d 1112, 1115 (11th Cir. 1993). A dispute is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson*, 477 U.S. at 248. If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted. *See id.* at 249.

When faced with a "properly supported motion for summary judgment, [the non-moving party] must come forward with specific factual evidence, presenting more than mere allegations." *Gargiulo v. G.M. Sales, Inc.*, 131 F.3d 995, 999 (11th Cir. 1997). As Anderson teaches, under Rule 56(c) a plaintiff may not simply rest on her allegations made in the complaint; instead, as the party bearing the burden of proof at trial, she must come forward with at least some evidence to support each element

essential to her case at trial. *See Anderson*, 477 U.S. at 252. "[A] party opposing a properly supported motion for summary judgment 'may not rest upon the mere allegations or denials of [her] pleading, but . . . must set forth specific facts showing that there is a genuine issue for trial.'" *Id.* at 248 (citations omitted).

Summary judgment is mandated "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." *Celotex Corp.*, 477 U.S. at 322. "Summary judgment may be granted if the non-moving party's evidence is merely colorable or is not significantly probative." *Sawyer v. Sw. Airlines Co.*, 243 F. Supp. 2d 1257, 1262 (D. Kan. 2003) (citing *Anderson*, 477 U.S. at 250-51).

"[A]t the summary judgment stage the judge's function is not himself to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial." *Anderson*, 477 U.S. at 249. "Essentially, the inquiry is 'whether the evidence presents a sufficient disagreement to require submission to the jury or whether it is so one-sided that one party must prevail as a matter of law." *Sawyer*, 243 F. Supp. 2d at 1262 (quoting *Anderson*, 477 U.S. at 251-52); *see also LaRoche v. Denny's, Inc.*, 62 F. Supp. 2d 1366, 1371 (S.D. Fla. 1999) ("The law is clear . . . that suspicion, perception, opinion, and belief cannot be used to defeat a motion for summary judgment.").

IV. Analysis

After careful review of the parties' briefs, and with the benefit of oral argument, the court concludes that Defendants are entitled to summary judgment on all claims in this suit. As explained below, Plaintiffs' unjust enrichment claim and their request for the court to declare

JCS's administration of purportedly unlawful orders of probation to be unlawful are due to be dismissed without prejudice under the *Rooker-Feldman* doctrine due to the court's lack of subject-matter jurisdiction.[5] In the alternative, Defendants are entitled to summary judgment on Plaintiffs' unjust enrichment claim because the claim either fails under the voluntary payment doctrine or constitutes an impermissible collateral attack on the municipal court's judgments. Plaintiffs' claims for obstruction of law and violations of equal protection are due to be dismissed for failure to state a claim upon which relief can be granted. Finally, the named Plaintiffs lack standing to seek declaratory relief regarding probation terms or fines above the relevant statutory maximums.

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[5] At oral argument, Defendants' counsel contended that Plaintiffs' claims were due to be dismissed under *Heck v. Humphrey*, 512 U.S. 477 (1994). (Doc. # 162 at 133-34). Plaintiffs note in their supplemental brief that Defendants did not present a *Heck* issue in their motion to dismiss, motion for summary judgment, or opposition brief to Plaintiffs' partial motion for summary judgment. (Doc. # 161 at 6). Moreover, Plaintiffs claim that *Heck* does not apply in this action because they have not brought suit under 42 U.S.C. § 1983. (*Id.* at 7). The court agrees with Plaintiffs that Heck does not apply to their action because they have not brought suit under § 1983. The *Heck* opinion addressed the "intersection" between § 1983 and 28 U.S.C. § 2254. 512 U.S. at 480. It held that "a § 1983 plaintiff" must prove the reversal, expungement, or invalidation of a state-court criminal judgment or sentence in order to recover damages for a constitutional violation that would necessarily imply the unlawfulness of the plaintiff's conviction or sentence. *Id.* at 486-87. Defendants have not cited, and the court has not found, any authority extending the *Heck v. Humphrey* bar to claims brought under the court's diversity jurisdiction.

A. The *Rooker-Feldman* Doctrine Bars Plaintiffs' Claims for Unjust Enrichment and a Declaratory Judgment Regarding the Collection of Fines Under Purportedly Unlawful Probation Orders

Among other arguments, Defendants seek summary judgment because they believe that the *Rooker-Feldman* doctrine forecloses this court's review of Plaintiffs' claims. (Docs. # 99 at 6-8; 110 at 2 n. 1). According to Defendants, Plaintiffs seek a ruling from this court that their probation orders are a void nullity. (Doc. # 99 at 7). Defendants insist that Plaintiffs cannot seek such a ruling from this court under the *Rooker-Feldman* doctrine. (*Id.*). Indeed, Defendants claim that the *Rooker-Feldman* doctrine, as applied by the Eleventh Circuit, extends to claims that even indirectly challenge a state court's judgment. (*Id.* at 7-8).

Plaintiffs respond that the Supreme Court's opinion in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005), limited the scope of the *Rooker-Feldman* doctrine. (Doc. # 104 at 6-7). They argue that the *Rooker-Feldman* doctrine does not apply where a plaintiff challenges the actions of a defendant, rather than a state court decision. (*Id.* at 7). Plaintiffs insist that they challenge JCS's unlawful collection of fees, rather than their putative orders of probation. (*Id.* at 8). Moreover, as they have explained, they do not contest the underlying Municipal Court judgments, the Municipal Court's imposition of fines, or the Municipal Court's imposition of court costs. (*Id.* at 9). Additionally, Plaintiffs argue that they should not be considered state-court losers because they never brought a claim against JCS in state court. (*Id.* at 11).

"The *Rooker-Feldman* doctrine places limits on the subject-matter jurisdiction of federal district courts and courts of appeal over certain matters related to previous state court litigation." *Cormier v. Horkan*, 397 F. App'x 550, 552 (11th Cir. 2010) (quoting *Goodman ex rel. Goodman v. Sipos*, 259 F.3d 1327, 1332 (11th Cir. 2001)). The *Rooker-Feldman* doctrine provides that federal district courts lack authority to review "final judgments of a state court."[6] *Lozman v. City of Riviera Beach, Fla.*, 713 F.3d 1066, 1072 (11th Cir. 2013) (quoting *Nicholson v. Shafe*, 558 F.3d 1266, 1271 (11th Cir. 2009)). This narrow doctrine forecloses a federal district court from considering "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting

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[6] In their supplemental brief, Plaintiffs argue that the *Rooker-Feldman* doctrine does not apply to suits brought under diversity jurisdiction, rather than federal question jurisdiction. (Doc. # 161 at 1-2). The Fifth, Seventh, Ninth, and Tenth Circuits disagree. *See, e.g.*, *Noel v. Hall*, 341 F.3d 1148, 1155 (9th Cir. 2003) (asserting that two non-applicable statutory exceptions exist to the general rule that federal trial courts lack jurisdiction to review state-court judgments); *Bergquist v. Mann Bracken, LLP*, 592 F.3d 816, 818 (7th Cir. 2010) ("The *Rooker-Feldman* doctrine was originally stated as a limitation on federal-question jurisdiction under 28 U.S.C. §§ 1331 and 1343; today no one doubts that it is equally applicable to diversity litigation."); *Morris v. Wells Fargo Bank*, 677 F. App'x 955, 957 (5th Cir. 2017) (citing *Bergquist*); *Segler v. Felfam Ltd. P'ship*, 324 F. App'x 742, 743 (10th Cir. 2009) (citing *Noel*). *See also Exxon Mobil*, 544 U.S. at 291 (stating that the *Rooker-Feldman* doctrine can prevent a district court from exercising federal question or diversity jurisdiction). In light of these authorities, the court finds that Plaintiff's reliance on diversity jurisdiction does not preclude the court from applying *Rooker-Feldman*. If Plaintiffs had originally filed this action in state court, the court would be faced with the issue of whether remand was warranted pursuant to the *Rooker-Feldman* doctrine. But, Plaintiffs directly filed this suit in federal court; no remand issue is presented. (*See* Doc. # 1).

district court review and rejection of those judgments." *Exxon Mobil*, 544 U.S. at 284. *See also id.* at 293 (describing the "paradigm situation" for Rooker-Feldman preclusion as one where a plaintiff seeks "to undo the [state-court] judgment in its favor"). According to the Supreme Court, *Rooker-Feldman* does not prevent a party from litigating a matter previously litigated in a state court proceeding. *Id.* at 293. Indeed, as the Supreme Court has expressly recognized, state-law preclusion, rather than *Rooker-Feldman* preclusion, should be considered when analyzing an independent claim from that raised in a state court that "denies a legal conclusion that a state court has reached in a case to which [the plaintiff] was a party." *Id.* (quoting *GASH Assocs. v. Rosemont*, 995 F.2d 726, 728 (7th Cir. 1993)).

Nevertheless, after *Exxon Mobil*, the *Rooker-Feldman* doctrine continues to bar "federal court jurisdiction where the issue before the federal court [is] 'inextricably intertwined' with the state court judgment so that (1) the success of the federal claim would 'effectively nullify' the state court judgment, or that (2) the federal claim would succeed 'only to the extent that the state court wrongly decided the issues.'" *Alvarez v. Att'y Gen. of Fla.*, 679 F.3d 1257, 1262-63 (11th Cir. 2012) (explaining that the inextricably intertwined standard continues to apply after the Supreme Court's narrowing of the *Rooker-Feldman* doctrine in *Exxon Mobil* and *Lance v. Dennis*, 546 U.S. 459 (2006)) (quoting *Casale v. Tillman*, 558 F.3d 1258, 1260 (11th Cir. 2009)). In *Alvarez*, the Eleventh Circuit held that the Rooker-Feldman doctrine barred a state prisoner from challenging a state court's denial of post-trial DNA testing through a § 1983 action. *Alvarez*, 679 F.3d at 1263. It distinguished a plaintiff's as-applied challenge to the state court's handling of his particular motion for post-trial testing from a § 1983 challenge to a state's DNA access statute, which would not be barred by the *Rooker-*

Feldman doctrine. *Id.* (distinguishing Alvarez's case from the § 1983 case considered by the Supreme Court in *Skinner v. Switzer*, 562 U.S. 521 (2011)).

Following *Exxon Mobil*, the Eleventh Circuit, in an unpublished opinion, upheld the dismissal of an action that sought an order declaring state court rulings to be void. *Hirschhorn v. Ross*, 250 F. App'x 916, 916 (11th Cir. 2007). And, as a member of the undersigned's court has explained, federal courts lack subject-matter jurisdiction under *Rooker-Feldman* "only if the relief requested requires [the federal court] to determine that the state court decision was wrong, or otherwise should be voided." *Blackburn v. Calhoun*, 2008 WL 850191, at *18 (N.D. Ala. Mar. 4, 2008), *aff'd*, 296 F. App'x 788 (11th Cir. 2008). *See also Abbott v. Michigan*, 474 F.3d 324, 328 (6th Cir. 2007) (explaining that the *Rooker-Feldman* doctrine bars a federal court from considering a claim "[i]f the source of the injury is the state court decision"); *Desi's Pizza, Inc. v. City of Wilkes-Barre*, 321 F.3d 411, 419 (3d Cir. 2003) (explaining that the Rooker-Feldman doctrine prevents review of a claim that requests voiding a state court's judgment).

In *Abbott*, the Sixth Circuit considered whether the *Rooker-Feldman* doctrine barred claims against state entities for converting pension benefits. *See* 474 F.3d at 326, 329. Before that case was filed, the Michigan Supreme Court had upheld a law directing prisoners to assign their pension payments to a prison warden, who acted as a receiver, and had denied a prisoner's ERISA claim against the state statute. *Id.* at 327. A state court had ordered the Abbott plaintiffs to assign their pension payments to the prison warden for distribution to the state of Michigan and their families. *Id.* The plaintiffs then sued the state of Michigan, Michigan executive departments, and state officials under the Due Process Clause, ERISA, and state

law. *Id.* The Sixth Circuit affirmed the district court's dismissal of the action under the *Rooker-Feldman* doctrine, explaining that the injuries alleged were caused by the state court's orders rather than any official's actions. *Id.* at 329.

> In this case, the plaintiffs are ostensibly complaining of injuries caused by the actions of third parties—the conversion of their pension benefits by state officials—but those actions were the direct and immediate products of the state-court SCFRA judgments. The plaintiffs' claims and arguments make this clear: They assert that the state courts erred in issuing the SCFRA judgments and do not claim that the defendants have injured them in any way except by strictly executing those judgments. Accordingly, the plaintiffs' claims of specific injuries that they have suffered are actually challenges to the state-court SCFRA judgments and are barred by the Rooker–Feldman doctrine

Id.

Here, certain of Plaintiffs' claims are due to be dismissed under the *Rooker-Feldman* doctrine. First, the *Rooker-Feldman* doctrine bars the court from considering Plaintiffs' request to declare JCS's administration of purportedly unlawful orders of probation to be unlawful. (See Doc. # 53 at ¶ 32(a)). Like the claims at issue in *Abbott*, this request for declaratory relief expressly rests on JCS's enforcement of state court orders and requires the court to find that those orders "are not lawful orders of probation." (*Id.*). This court lacks subject-matter jurisdiction to review and reject those state court orders. *Exxon Mobil*, 544 U.S. at 284.

Moreover, Plaintiffs' unjust enrichment claim, which is premised on the assertion that JCS received "ill-gotten gains" from collecting monies under the orders of probation, cannot be considered by the court under *Rooker-Feldman* either. (See Doc. # 53 at ¶ 35). For the court to conclude that JCS's fees were ill-gotten gains, it would necessarily have to find that the orders of probation did not authorize JCS to collect those fees because they were nullities.[7] Accordingly, the claim ultimately asks the court to review and reject the orders of probation that purportedly justified JCS's collection of monies from Carroll and Thurman. This the court cannot do. *Exxon Mobil*, 544 U.S. at 284. Further, as Plaintiffs' unjust enrichment claim is inextricably intertwined with the Municipal Court's probation orders, logically, that claim can only succeed if the court finds the probation orders to be invalid. *Cf. Alvarez*, 679 F.3d at 1262-63. As in *Alvarez*, Plaintiffs have raised a claim contesting the legal effect of their individual probation orders, rather than a more abstract constitutional claim against the Municipal Court's window procedure. *See id.* at 1263 (explaining why an as-applied challenge to a denial of postconviction DNA testing is distinguishable from a § 1983 suit challenging state-court rules for bringing motions for post-conviction DNA testing). For these reasons, Plaintiffs' unjust enrichment claim and first request for declaratory relief are due to be

[7] Because this count states that Defendants were unjustly enriched by the "foregoing alleged activities" described earlier in the complaint, it is somewhat unclear what actions led to JCS receiving ill-gotten gains. The Second Amended Complaint could be read to allege that JCS received unlawful gains when it collected monetary payments from probationers for periods of time that exceeded the two-year statutory maximum. (See Doc. # 53 at ¶ 32(b)). But, neither Carroll nor Thurman possess standing to bring such a claim because their terms of probation lasted less than two years. (*See generally* Docs. # 99-7; 99-8).

dismissed without prejudice, pursuant to the Rooker-Feldman doctrine.

Plaintiffs' attempt to distinguish JCS's conduct from the orders of probation is unconvincing. By all accounts, JCS collected the amounts owed to itself and the Municipal Court in execution of the "orders of probation." *Cf. Abbott*, 474 F.3d at 329 (explaining that the state defendants had collected monies owed to the state under express state court judgments). Thus, although Plaintiffs' claim purportedly is based on the actions of JCS, it is actually based on the "direct and immediate products" of the Municipal Court orders they seek to declare void. *Cf. id.*

In their supplemental brief, Plaintiffs argue that the *Rooker-Feldman* doctrine should not bar Plaintiff Carroll's unjust enrichment claim because her state court probation order was not final until the Municipal Court's records reflected the probation order. (Doc. # 161 at 3). That argument misses the mark. Indeed, the records available to the court reveal that Carroll pled guilty to the charges in May 2010 and signed a probation order in May 2010 as well. (Docs. # 85-2 at 2; 99-14 at 3, 6, 9). Under Alabama law, Carroll could have appealed the judgments and associated sentences well before this suit was filed in August 2012.[8] *See* Ala. R. Crim. P. 30.1(a) (permitting a municipal court defendant to appeal his or her conviction to a circuit court within 14 days of the judgment).

Plaintiffs also claim in their supplemental brief that *Rooker-Feldman* should not bar their claims because they

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[8] To be clear, this case is distinguishable from *Ray v. Judicial Correction Services, Inc.*, Case No. 2:12-cv02819-RDP, because three of the four plaintiffs in that suit arguably were not initially convicted of an offense. Thus, they lacked a right to appeal their judgments and probation orders to a circuit court under Alabama law. *See* Ala. R. Crim. P. 30.1.

lacked a reasonable opportunity to raise legal challenges to their probation orders before the Municipal Court. (Doc. # 161 at 5-6). They contend that JCS denied them any opportunity to contest the orders by obstructing their access to the Municipal Court. (*Id.* at 6). It is well-settled that the Rooker-Feldman doctrine does not apply in situations where the plaintiff lacked a "reasonable opportunity to raise his federal claim in state proceedings." *Powell v. Powell*, 80 F.3d 464, 467 (11th Cir. 1996) (quoting *Wood v. Orange Cty.*, 715 F.2d 1543, 1547 (11th Cir. 1983)). Having said that, Plaintiffs cite no authority for the proposition that a nonincarcerated individual lacks a reasonable opportunity to raise a claim in state proceedings because another party discouraged the individual from contacting a court. (*See* Doc. # 161 at 56). Plaintiffs have not explained how JCS's admonition deprived them of "meaningful access to the courthouse," particularly given that Plaintiffs maintained the legal right to file papers with the Municipal Court or any other appropriate court. *Zabriskie v. Court Admin.*, 172 F. App'x 906, 909 (11th Cir. 2006) (affirming the dismissal of a non-prisoner's access-to-courts claim regarding access to a center for pro se litigants because the Due Process Clause does not require governmental officials to provide non-prisoners access to legal research resources). Unlike prisoners, Plaintiffs possessed the freedom to "seek access to additional sources of information" or legal advice from entities other than JCS. *Id.* The court is not convinced that Plaintiffs lacked a reasonable opportunity to challenge their orders of probation, either through the Municipal Court or an appeal to another state court. *Cf. Casale*, 558 F.3d at 1261 ("If [the plaintiff] believed the state court's result was based on a legal error, the proper response was the same one open to all litigants who are unhappy with the

judgment of a trial court: direct appeal."). Thus, *Rooker-Feldman* preclusion applies.[9]

B. Alternatively, Defendants are Entitled to Summary Judgment on the Unjust Enrichment Count Due to the Voluntary Payment Doctrine

A defendant is unjustly enriched if: (1) the payor "acted under a mistake of fact"; (2) the payor mistakenly relied "on a right or duty"; or (3) the defendant "engaged in some unconscionable conduct, such as fraud, coercion, or abuse of a confidential relationship." *Mantiply v. Mantiply*, 951 So. 2d 638, 654-55 (Ala. 2006) (quoting *Welch v. Montgomery Eye Physicians, P.C.*, 891 So. 2d 837, 843 (Ala. 2004)). It is well settled, though, that a plaintiff's unjust enrichment claim is "precluded by proof that the plaintiff voluntarily paid what he or she is seeking to recover." *Stone v. Mellon Mortg. Co.*, 771 So. 2d 451, 456 (Ala. 2000). Thus, if a plaintiff, "with full knowledge of all the facts, voluntarily pays money to satisfy the colorable legal demand of another, no action will lie to recover such a voluntary payment, in the absence of fraud, duress, or extortion." *Id.* (quoting *Mt. Airy Ins. Co. v. Doe Law Firm*, 668 So. 2d 534, 537 (Ala. 1995)). A mere threat of

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[9] Plaintiffs' argument that a claim must be adjudicated in state court in order to be subject to RookerFeldman is unavailing. Plaintiffs rely on *Vasquez v. YII Shipping Co.*, 692 F.3d 1192, 1196 (11th Cir. 2012), where the Eleventh Circuit held that a Florida court's judgment on whether the plaintiffs' claims were subject to state *forum non conveniens* rules did not foreclose federal court review of whether those claims were justiciable under maritime law. Under the circumstances presented in *Vasquez*, the Eleventh Circuit held that the Florida judgment was not being reviewed because the Florida courts had not been asked to resolve the maritime law issue. *Id.* Nevertheless, the Vasquez opinion reaffirmed Exxon Mobil's prohibition on reviewing and rejecting state court judgments. *Id.* That is what Plaintiffs' unjust enrichment claim seeks to do.

legal proceedings does not constitute duress. *Mt. Airy Ins. Co.*, 668 So. 2d at 538.

Defendants argue that they are entitled to summary judgment for Plaintiffs' unjust enrichment claims under the voluntary payment doctrine. (Doc. # 110 at 12-15). They claim that Plaintiffs voluntarily agreed to pay the monthly fees and admitted that they were not coerced into making the payments. (*Id.* at 12-13). Plaintiffs contend that Thurman agreed to the terms of probation under JCS supervision because she did not want to go to jail. (Doc. # 116 at 11). According to Plaintiffs, the Rule 56 record reveals that JCS threatened to jail probationers unless they paid the amounts owed under the probation orders. (*Id.* at 12).

Defendants rely upon *Kruse v. City of Birmingham*, 67 So. 3d 910 (Ala. Civ. App. 2011), and assert that the voluntary payment doctrine applies to fines paid for traffic tickets. In *Kruse*, the plaintiff brought an unjust enrichment claim against the City of Birmingham, among other claims, after paying fines that purportedly were time-barred. 67 So. 3d at 911. The plaintiff claimed that the city threatened to incarcerate him unless he paid the fines for parking citations issued to his vehicle. *Id.* Kruse paid those fines during a period where the city granted amnesty from prosecution for outstanding parking citations. *Id.* at 911-12. Nevertheless, he alleged that the city was unjustly enriched by retaining the fines because it attempted to collect fines after the statute of limitations for doing so had expired. *Id.* at 912. Nevertheless, the Alabama Court of Civil Appeals held that the plaintiff's unjust enrichment claim failed because he had voluntarily paid the fines. *Id.* at 916-17. It rejected the plaintiff's claim that he had acted under duress because he did not dispute his liability before paying the fines. *See id.* Plaintiffs seek to distinguish Kruse noting that the plaintiff in that case

made payments during a period in which Birmingham lifted the threat of incarceration for non-payment of fees. After careful analysis, the court concludes Defendants have the better side of the argument.

In *Brown v. State*, 565 So. 2d 585, 585-86 (Ala. 1990), the Alabama Supreme Court addressed whether the plaintiffs could bring a class action suit seeking a refund of fines and costs paid pursuant to traffic tickets that had not been verified before a judicial officer. The plaintiffs in Brown showed that their traffic tickets appeared to be verified because a trial court clerk had directed her staff to stamp her signature on tickets. *Id.* at 588-89. However, the clerk later testified that the officers who issued the tickets never appeared before her to verify the charges. *Id.* at 588. The Alabama Supreme Court acknowledged that the procedure used by the trial court violated the plaintiffs' state-law rights because state law required officers to formally accuse a defendant under oath to institute the misdemeanor charges at issue. *Id.* at 589-90.

Nevertheless, the Alabama Supreme Court held in Brown that the plaintiffs could not recover the fines and fees charged to them because their suit brought an untimely collateral challenge to their judgments. *Id.* at 590. The Court found no "evidence of fraud or corruption" by the trial court's officers. *Id.* And, it cited a federal court's ruling that "when one pays a fine voluntarily under a mistake of law, that fine cannot be recovered unless payment was induced by the fraud or the undue advantage of the one receiving it." *Id.* (quoting *Callahan v. Sanders*, 339 F. Supp. 814, 818 (M.D. Ala. 1971)). Because the plaintiffs in *Brown* sought "to dispose of their misdemeanor cases as expeditiously and as conveniently as possible" and did not contest their guilt of the underlying charges, the Alabama Supreme Court held that the plaintiffs could not seek reimbursement of the fines. *Id.* at 591.

Here, the court agrees with Defendants that the state-law unjust enrichment claims are barred by Alabama's voluntary payment doctrine. Plaintiffs do not claim in their opposition brief that they lacked full knowledge of the facts when they agreed to pay probation fees to JCS so that they could receive a payment plan for their Municipal Court fines and fees. (*See* Doc. # 116 at 11-14). And, while Plaintiffs have claimed that Defendants lacked legal authority to impose their probation fees, they have not argued that Defendants lacked a colorable legal basis to charge the additional fees. (*See id.*). *See also Stone*, 771 So. 2d at 456 (holding that the voluntary payment doctrine applies if the recipient has a colorable legal basis for its demand). Indeed, Plaintiffs rest their challenge to Defendants' invocation of the voluntary payment doctrine on the fraud, duress, and extortion exception to the doctrine.

A review of the Rule 56 record makes plain that Plaintiffs have not presented a triable issue of whether JCS obtained the probation fees through fraud, duress, or improper pressure. First, Plaintiffs' argument that JCS unjustly obtained probation fees by threatening imprisonment fails because nothing in the Rule 56 record indicates that JCS threatened to incarcerate Plaintiffs without seeking legal process through the Municipal Court. (*See* Doc. # 85-2 at 2) (warning individuals that they could be arrested for violating terms of probation and that JCS could request revocation from the Municipal Court). Alabama law clearly provides that a threat to institute legal proceedings is not a form of improper pressure upon which an unjust enrichment claim may lie. *See Mt. Airy Ins. Co.*, 668 So. 2d at 538. Second, Plaintiffs' attempt to distinguish their unjust enrichment claim from the claim presented in *Kruse* is unavailing. As in *Kruse*, Plaintiffs agreed to pay the probation fee as part of the payment for fines imposed against them by a municipal court.

Moreover, as in *Kruse*, Plaintiffs do not contest that they were liable for the traffic offenses for which the Municipal Court issued the fines. *Kruse* indicates that a threat of incarceration by a party enforcing a municipal court's order or judgment is not a form of fraud, duress, or improper pressure that can support an unjust enrichment claim. *Cf. Kruse*, 67 So. 3d at 911 (recounting the plaintiff's allegation that the city was unjustly enriched by threatening to incarcerate him for failing to pay fines that were time-barred). Accordingly, Plaintiffs' argument that Defendants cannot rely on the voluntary payment doctrine due to fraud, duress, or improper pressure fails as a matter of law.

Alternatively, even if the voluntary payment doctrine did not bar Plaintiffs' unjust enrichment claims (and, plainly, it does), Alabama Supreme Court precedent demonstrates that the unjust enrichment claims would nevertheless fail as a matter of law. *See Brown*, 565 So. 2d at 590-91. In *Brown*, the Alabama Supreme Court held that analogous claims for refunds of fines and fees paid by traffic offenders were unsuccessful collateral attacks on the criminal judgments. *Id.* at 590. As in *Brown*, Plaintiffs seek to collect amounts previously paid pursuant to an order issued in connection with an adjudicated municipal court traffic case. As a matter of Alabama state law, such a claim is an impermissible collateral attack on the municipal court's judgment. *See id.* Therefore, pursuant to *Brown*, Defendants would also be entitled to summary judgment on Plaintiffs' unjust enrichment claims.

C. Plaintiffs Have Not Shown That Alabama Law Provides a Private Cause of Action for Obstruction of Law

Defendants argue that Plaintiffs' obstruction of law claim in Count Three of the Second Amended Complaint is due to be dismissed for the lack of a private cause of

action. (Doc. # 50 at 9-11). Plaintiffs respond that "this claim fits within and is allowed to proceed under the law which the Plaintiffs invoke for their unjust enrichment claim and for declaratory and injunctive relief."[10] (Doc. # 52 at 16). The court agrees with Defendants.

At one time, Alabama law provided that "every criminal act which injures the person or property of another is also a civil tort, redressable by the courts." *Hardie-Tynes Mfg. Co. v. Cruse*, 66 So. 657, 661 (Ala. 1914). However, in *Martinson v. Cagle*, 454 So. 2d 1383, 1385 (Ala. 1984), the Alabama Supreme Court clarified that statement by explaining that, although an act that constitutes a crime may also serve as the basis of a civil action, civil liability does not exist automatically. Rather, civil liability exists "only if the acts complained of violate the legal rights of the plaintiff, constitute a breach of duty owed to the plaintiff, or constitute some cause of action for which relief may be granted." *Id.* at 1385. *See also Prill v. Marrone*, 23 So. 3d 1, 11 (Ala. 2009) (holding that Alabama law did not provide a private right of action for criminal conspiracy or criminal complicity).

Alabama law criminalizes the obstruction of governmental operations through intimidation, physical force, interference, or any other unlawful act. Ala. Code § 13A-10-2(a). Nothing in § 13A-10-2, though, indicates that it is intended to provide a private cause of action. Nor have the Plaintiffs cited authority where an Alabama court recognized a private cause of action for an obstruction of governmental operations that caused harm to a particular

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[10] At oral argument, Plaintiffs' counsel stated that they had pled an obstruction claim under 42 U.S.C. § 1983, in addition to a state-law claim. (Doc. # 162 at 139). Plaintiffs have clarified in their supplemental brief that "they are not proceeding on a claim under 42 U.S.C. § 1983." (Doc. # 161 at 1-2).

plaintiff. Because Plaintiffs' obstruction of law claim does nothing more than assert that Defendants violated a criminal statute and that Plaintiffs were thereby harmed,[11] Defendants are entitled to summary judgment for this claim.

D. Plaintiffs' Equal Protection Claims Fail to State a Claim for Relief

Defendants argue in their motion for summary judgment that Plaintiffs' equal protection claims fail to state a claim for relief. (Doc. # 110 at 25). Plaintiffs have not responded to this argument in their summary judgment opposition brief. In their opposition brief to the *motion to dismiss*, Plaintiffs argued that, if JCS acted under color of state law, then it violated their equal protection rights by not treating similarly situated people alike. (*See* Doc. # 52 at 19). The court agrees with Defendants that this claim is not adequately pled.

Plaintiffs have argued that the equal protection claim should go forward as a wealth-based equal protection claim. The Supreme Court has issued two opinions that are relevant to the question of equal protection rights of indigent probationers. In *Williams v. Illinois*, 399 U.S. 235 (1970), the Supreme Court held that a court "may not constitutionally imprison beyond the maximum duration fixed by statute a defendant who is financially unable to pay a fine." *Id.* at 243. In its opinion, though, the Williams Court explained that a state is "not powerless to enforce judgments against those financially unable to pay a fine." *Id.* at 244. In a footnote, it referred to the State's argument that a state court could, consistent with the Equal Protection Clause, "impose a parole requirement on an indigent that he do specified work during the day to satisfy

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[11] (*See* Doc. # 53 at ¶ 41) ("JCS, by the wrongdoing alleged, has obstructed and violated the foregoing law, and the Plaintiffs and Class have been . . . harmed [ ] as a result.").

the fine." *Id.* at 244 n. 21. In *Tate v. Short*, 401 U.S. 395 (1971), the Supreme Court held that a court may not subject a defendant to imprisonment "solely because of his indigency." *Id.* at 397-98. But, again, the Supreme Court recognized that the state court could address an indigent's inability to pay the fine by directing that a defendant pay a fine in installments. *See id.* at 400 n.5.

Plaintiffs' equal protection claim does not explain how JCS's conduct treated similarly situated individuals differently. To the extent Plaintiffs argue that JCS treated individuals that could immediately pay fines differently from those who could not do so,[12] the Second Amended Complaint does not discuss the Municipal Court's or JCS's conduct towards individuals who were able to immediately pay their fines. (*See generally* Doc. # 53 at ¶¶ 39-41). Thus, the Second Amended Complaint does not adequately plead that JCS treated similarly situated individuals differently in violation of equal protection. To the extent Plaintiffs allege an equal protection claim based on JCS's unlawful administration of their probation sentences, their equal protection claim does not fall within the Supreme Court's authority from *Williams* or *Tate* because the Municipal Court did not imprison either named Plaintiff to jail for failing to pay fines or fees. *Williams* and *Tate* both acknowledge that a court can impose a different sentence on an indigent defendant than a non-indigent defendant. *Williams*, 399 U.S. at 244 n. 21; *Tate*, 401 U.S. at 400 n. 5. And, neither case forecloses a court from imposing a probationary sentence on a defendant while he or she pays fines in installments. Accordingly, Plaintiffs

[12] *Cf. City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985) ("The Equal Protection Clause of the Fourteenth Amendment commands that no State shall 'deny to any person within its jurisdiction the equal protection of the laws,' which is essentially a direction that all persons similarly situated should be treated alike.").

have not presented an plausible equal protection claim, and Defendants are entitled to summary judgment on that claim.

E. The Remaining Plaintiffs Lack Standing to Seek a Declaratory Judgment Regarding Violations of Statutory Maximums

In their Second Amended Complaint, Plaintiffs seek a declaration that JCS violated state and federal law "by commanding and coercing payments of fines or fees, or charges of any kind, in excess of any such amount allowed by law, or for periods of time which exceed the maximum amount [of] time prescribed by law for probation." (Doc. # 53 at ¶ 32(b)). However, Greg Solley was the only named plaintiff in this action who allegedly faced a probation sentence exceeding the two-year statutory maximum. (*See id.* at ¶ 26). Indeed, both Carroll and Thurman completed their probation terms in less than one year.[13] (*See generally* Docs. # 99-7; 99-8). Thus, the question is whether Carroll and Thurman have standing to bring this declaratory judgment claim.

Before certifying a class action, the court must review whether at least one named plaintiff has Article III standing to bring each subclaim presented in the action.[14] *Prado-Steiman ex rel. Prado v. Bush*, 221 F.3d 1266, 1279 (11th Cir. 2000). A plaintiff seeking declaratory relief from a federal court must show "a reasonable expectation that the injury they have suffered will continue or will be repeated in the future." *Malowney v. Fed. Collection Deposit Grp.*, 193 F.3d 1342, 1347 (11th Cir. 1999). A party's

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[13] And, at oral argument, Plaintiffs' counsel acknowledged that they did not allege payment of a fine, fee, or court cost above any applicable statutory maximum. (Doc. # 162 at 138-39).

[14] The court may raise standing issues *sua sponte*. *Bischoff v. Osceola Cty., Fla.*, 222 F.3d 874, 877-78 (11th Cir. 2000).

Article III standing to bring suit is determined by whether it had standing at the time of filing. *Focus on the Family v. Pinellas Suncoast Transit Auth.*, 344 F.3d 1263, 1275 (11th Cir. 2003).

In this case, both named Plaintiffs lack standing to bring the declaratory subclaim concerning administration of sentences above the relevant statutory maximums. Neither named Plaintiff was under JCS probation for more than one year, much less two years. (*See generally* Docs. # 99-7; 99-8). Plaintiffs have not alleged or argued that Carroll or Thurman paid any fine, fee, or cost above any applicable statutory maximum. (See Doc. # 162 at 138-39). Nor does the Rule 56 record show that they reasonably expected to be subject to a fine, fee, or cost above a statutory maximum when they filed this action. Accordingly, the court finds that Plaintiffs Carroll and Thurman lack standing to bring the declaratory subclaim in paragraph 32(b) of the Second Amended Complaint. Accordingly, that claim is due to be dismissed.

V. Conclusion

For the reasons explained above, Plaintiffs' motion for partial summary judgment is due to be denied. Defendants' motion for summary judgment is due to be granted. An order consistent with this memorandum opinion will be entered.

DONE and ORDERED this September 12, 2017.

/s/ R. David Proctor
R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE

APPENDIX C

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION

LINDA THURMAN, et al.,

Plaintiffs,

v.

JUDICIAL CORRECTION SERVICES, } INC., et al.,

Defendants.

(Case No.: 2:12-cv-00724-RDP-TFM)

ORDER

This case is before the court on Defendants' Motion to Dismiss Second Amended Complaint (Doc. # 49), Plaintiffs' Motion for Partial Summary Judgment (Doc. # 85), and Defendants' Motion for Summary Judgment (Doc. # 109). In accordance with the Memorandum Opinion entered contemporaneously herewith, Plaintiff's motion for partial summary judgment (Doc. # 85) is **DENIED**. Defendants' motion for summary judgment (Doc. # 109) is **GRANTED**. It is hereby **ORDERED, ADJUDGED,** and **DECREED** that final judgment be entered in favor of Defendants Judicial Correction Services, Inc. and Correctional Healthcare Companies, Inc. and against Plaintiffs Linda Thurman and Courtnee Carroll. Defendants' motion to dismiss (Doc. # 49) is **MOOT**.

Costs are taxed against Plaintiffs.

DONE and **ORDERED** this September 12, 2017.

/s/ R. David Proctor
R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE