

El Paso County likely to pay \$60,000 to settle ACLU lawsuit over woman kept in jail because she couldn't pay \$55

By: Rachel Riley Aug 10, 2018 Updated 1 hr ago



Jasmine Still of Colorado Springs, who was held for 27 days after a court granted her pretrial release. (Courtesy of ACLU)

A past practice of keeping people in jail solely because they couldn't pay \$55 likely will cost El Paso County.

County commissioners will decide Tuesday whether to approve a \$60,000 payout to end a lawsuit filed by the American Civil Liberties Union of Colorado.

The ACLU sued on behalf of Jasmine Still, a Colorado Springs woman who spent more than 25 extra days in jail — despite a court granting her pre-trial release — because she couldn't pay a \$55 fee to the county.

Still's extra time in jail kept her apart from her newborn, and child custody proceedings were initiated against her during that time, the ACLU said in a past news release. The mother of three, who is in her 20s, ultimately decided to plead guilty to a felony drug charge to fight for custody of her children, costing her the opportunity to accept a misdemeanor plea offer that depended on her being employed, according to the civil liberties organization.

Under the proposed settlement, the county also would establish a process to compensate about 180 other people who spent more time in jail after a judge approved their release on a personal recognizance bond, or written promise to appear in court, because they couldn't pony up the \$55 release fee, said county spokesman Dave Rose. Those individuals, most of whom were held less than five extra days, would be awarded \$125 for each additional day they were held, Rose said.

Less than two weeks after the ACLU filed the lawsuit in U.S. District Court in November, 4th Judicial District Chief Judge William Bain halted the practice of holding those who couldn't pay the fee, ordering that individuals be released from custody the same day a judge grants a personal recognizance bond.

That policy change was in the works before the ACLU sued, Rose said, which is partly why the county decided to include compensation for others in the proposed settlement.

A consultant advised in June 2017 that the county could face consequences unless it ended the practice of keeping those issued PR bonds in jail simply because they couldn't pay the fee.

"The county had recognized that this was a process that the courts had found problems with in the past," Rose said.

The county also is taking steps to bolster its pretrial services program, which helps the 4th Judicial District identify who's eligible for PR bonds. The 2018 budget includes a \$300,000 boost so the historically understaffed and underfunded program can hire more case managers and intake staff. The goal is

to identify more low-level, nonviolent offenders who are suitable candidates for PR bonds.

Mark Silverstein, legal director for the ACLU of Colorado, praised the county for nixing the policy that continued to jail those who couldn't pay the \$55 fee and for crafting a settlement that would include restitution for others held under the "cruel and heartless" practice.

"I think county officials deserve credit for ending this as soon as we filed the lawsuit and then really stepping up to work out this detailed settlement that compensates nearly 200 people who spent time in jail solely because they did not have \$55 to secure their release," Silverstein said. The ACLU determined that, from early October 2016 until the practice was ended in November 2017, 183 people spent more time in jail because they could not pay the fee, he said. In its initial complaint, the ACLU had pegged that number at 300, but Silverstein said the figure was winnowed down to exclude people held for other reasons or who were later sentenced to jail time and received credit for time served.

The \$60,000 settlement, which would be paid to the ACLU, includes damages to their client as well as attorney fees and court costs, Rose said. It appears on the Tuesday agenda on the "consent calendar" — a list of items that are generally unanimously approved with little or no discussion.

Consideration of the payout comes less than a month after the county finalized its largest legal settlement in memory.

The agreement, signed by county commissioner President Darryl Glenn on July 17, awarded \$675,000 to Philippa McCully, who sued over injuries she says she suffered when deputies pulled her legs out from under her and shoved her to the floor while she was in jail in 2014. The county's excess insurance carrier, OneBeacon, had 14 days to make the payment under terms of the agreement.