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Analysis of Cases Arising under the Public Assistance Titles of the Social Security Act and Decided by the United States Supreme Court Since 1960

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COMMENTS

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INTRODUCTION

The public assistance titles of the Social Security Act formed the framework for state programs that provide welfare on a "categorical" basis to certain eligible persons. They are essentially the following four titles: Title I, Old Age Assistance (OAA); Title IV, Grants to States for Aid and Services to Needy Families with Children (ADC or AFDC); Title XIV, Grants to States for Aid to the Permanently and Totally Disabled (APTD or AD); Title X, Aid to the Blind (AB).[1]

Statistics evidence that these four categories as well as those which receive general assistance have mushroomed into monstrous millions and billions. In mid-1960 there were 3 million AFDC recipients. Today there are more than 9 million. And costs have skyrocketed from 621 million dollars in 1955 to 4.1 billion dollars in 1970. Old age recipients increased from 1.6 billion in 1955 to 1.9 billion in 1970; blind recipients' benefits increased from 69 million dollars in 1955 to 97 million dollars in 1970; disabled recipients' benefits increased from 147 million dollars in 1955 to 897 million dollars in 1970; and those who received general assistance were increased from 287 million dollars in 1955 to 602 million dollars in 1970.[2]

The big controversy in Congress and among the public is focused on Aid to Families with Dependent Children. However, there has been an abundance of cases that were heard and decided by the United States Supreme Court since 1960 regarding general assistance and the other three categories.

The purpose of this article is to give an analysis of cases arising under the Public Assistance titles of the Social Security Act that have been decided by the United States Supreme Court since 1960. The following topics will be discussed: (1) Maximum Grants, (2) Limitations on State Resources, (3) Dependent Child, (4) Computing Aid for the

[1] Public Welfare, Poverty Law Reporter ¶¶ 1015, 2021.

[2] ———, "Welfare Out of Control," 80 U.S. News & World Reports 32 (February 8, 1971).

Dependent Child, (5) Eligibility, (6) Congress and Welfare Recipients, (7) Equal Protection and Statutory Claims, (8) Substituted Father, (9) Man-in-the-House, (10) State and Federal Funds, (11) Liens and Assignments, (12) States with Repayment Provisions, (13) Discriminatory Statutes and Relief, and (14) Termination before Hearings. In the analysis and discussion, several dominant issues will appear. They are as follows: (1) Whether the state regulation is inconsistent with the Social Security Act? (2) Whether the state regulation is violative of the Equal Protection Clause of the Fifth Amendment of the Constitution of the United States? (3) Whether a federal court that is called upon to pass on the constitutional validity of a state welfare program should, before reaching the constitutional issues, consider first any pending statutory claim? (4) Is a state agency in violation of the Due Process Clause of the Fourteenth Amendment if it does not afford a welfare recipient an evidentiary hearing before termination of benefits? (5) Does a state agency have a right to terminate a recipient of AFDC from receiving benefits if the recipient does not consent to the official entering his home?

Maximum Grants

State regulations concerning maximum grants have long been one of the disputed issues in our courts. Often in an attempt to exercise the concept, many welfare systems would compute the standard of need for each eligible family based on the number of children in a family and the circumstances under which the family will live. In general, the standards of need increased with each additional person in the household, but the increase became proportionally smaller. Single families could receive up to a limit of a certain number of dollars per month in certain counties. Elsewhere, the limit would be even less as opposed to a neighboring county.

One of the most popular decisions regarding maximum grants is *Dandridge v. Williams*.[3] The plaintiff had a large family. He brought suit in the U.S. District Court for the District of Maryland, alleging that the Maryland maximum grant regulations were in conflict with the federal Social Security Act and with the Equal Protection Clause of the Fourteenth Amendment. A three-judge district court was chosen which held the regulation violative of the Equal Protection Clause of the Constitution of the United States.

[3] 397 U.S. 471 (1970).

On direct appeal, the United States Supreme Court reversed. It held that the maximum grant regulation was not inconsistent with the Social Security Act and was not violative of the Equal Protection Clause.[4]

LIMITATIONS ON STATE RESOURCES

42 U.S.C. Sec. 601 (1964 Ed., Supp. IV), shows that Congress was itself cognizant of the limitations on state resources from the very outset of the federal welfare program. The first section of the Act reads as follows:

> For the purpose of encouraging the care of dependent children in their own home or in the homes of relatives by enabling each state to furnish financial assistance and rehabilitation and other services, *as far as practicable under the conditions in such State*, to needy (dependent) children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection . . . (Emphasis added)

From the reading of this section of the Act, it is recognized that federal law gives each state great latitude in dispensing its available funds.

In the Amendments of 1967, Congress acknowledged a full awareness of state maximum grant limitations by adding to Section 402(a) *supra* a subsection 23:

> The State shall provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any *maximums* that the State imposes on the amount of aid to families will be proportionally adjusted. 81 Stat. 898, 42 U.S.C. Section 602(a)(23) (1964 Ed., Supp. IV). (Emphasis added)

Congress left the structure of specific maximums to states and the validity of any such structure must meet constitutional tests. However, the above amendment does make clear that Congress fully recognized that the Act permits maximum grant regulations. *Dandridge v. Williams, supra.*

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[4] Montgomery v. Kaiser, 397 U.S. 595 (1970). For a discussion on jurisdiction, see Black, J., joined by Berger, J., concurring opinion. Also, note that probable jurisdiction was noted on direct appeal. See 28 U.S.C. § 1253; Dandridge v. Williams, 396 U.S. 811 (1970).

Dependent Child

42 U.S.C. Sec. 606(a) (1964 Ed., Supp. IV) defines "dependent child" as it appears in this case. It means a needy child:

> (1) Who has been deprived of parental support or care by reason of the death, continued absence from the home or physical or mental incapacity of a parent, and who is living with father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece in a place of residence maintained by one or more of such relatives at his or their own home and
>
> (2) Who is:
>
> (a) Under the age of 18, or
>
> (b) Under the age of 21 and (as determined by the state in accordance with standards prescribed by the Secretary of Health, Education and Welfare) a student regularly attending a school, college, or a university or regularly attending a course of vocational or technical training designed to fit him for gainful employment.

Generally, the argument is that the state regulation denies benefits to the younger children in a large family. Thus, the regulation is in patent violation of the Act since those younger children are just as *dependent* as their elder siblings under the definition of *"dependent child"* fixed by federal law.[5] Another famous argument that has been entertained by the court is that the regulation, limiting the amount of money any single household may receive, contravenes a basic purpose of the federal law by encouraging the parents of large families to farm out their children to relatives whose grants are not yet subject to the maximum limitation. The courts are more likely to accept the better and more realistic view that the lot of an entire family is diminished because of the presence of additional children without any increase in payments.[6] Also, the court is likely to accept the view that the family grant is only affected by additional births.

Computing Aid for the Dependent Child

In the instant case, *Dandridge v. Williams*, *supra*, the district court noted, the amount of aid "is . . . computed by treating the relatives, parents or parent, as the case may be, or the (dependent child) as a

[5] King v. Smith, 392 U.S. 309 (1968).
[6] *Id.*

part of the family unit."[7] Congress has been so desirous of keeping dependent children within a family that in the Social Security Amendments of 1967 it provided that aid could go to children whose need arose merely from their parents' unemployment under federally determined standards, although the parent was not incapacitated. In addition, it was stated that the states must respond to this federal statutory concern for preserving children in a family environment.[8]

ELIGIBILITY

There is considerable support in the legislative history that "eligibility or eligible individuals" means eligible applicants for AFDC grants, rather than all the family members whom the applicants may represent, and that the statutory provision was designed only to prevent the use of waiting lists.[9] This is also the view that has been taken by the Secretary of Health, Education, and Welfare who is charged with the administration of the Social Security Act and the approval of state welfare plans. There has been much argument about Section 402(a)(10) of the Social Security Act regarding the term "eligible individuals." The majority of arguments seem to follow this trend, that the maximum grant system is contrary to 42 U.S.C.A. Section 402(a)(10) of the Social Security Act, as amended, which requires that a state plan shall

> "provide . . . . that all individuals wishing to make application for Aid to Families with Dependent Children shall have opportunity to do so and that Aid to Families with Dependent Children shall be furnished with reasonable promptness to all eligible individuals."

(Note that this argument generally does not stand, see *Dandridge v. Williams, supra.*)

In *Rosado v. Wyman*,[10] the court dealt with facts similar to those of *Dandridge v. Williams, supra.* In addition, it introduced a new term "special grants" and rendered an opposite decision. New York, by Section 131-A of the Social Service Law, altered its standards of need computation under the federally supported Aid to Families with Dependent Children (AFDC) programs, and adopted a system fixing maximum allowances per family based on the number of persons in

[7] Dandridge v. Williams, 297 F. Supp. at 455.
[8] 42 U.S.C. § 607 (Supp. IV, 1964).
[9] See H.R. Rep. No. 1300, 81st Cong., 1st Sess. 48, 148 (1949); 95 Cong. Rec. 13934 (1949), Remarks by Rep. Forand.
[10] 397 U.S. 397 (1970).

the family and the age of the oldest child, and eliminated a "special grants program."

The court held that (1) after the equal protection issue became moot, the district court properly exercised its pendent jurisdiction over the issue involving Section 402(a)(23); (2) because the plaintiffs were not seeking review of an administration order and could not have obtained an administrative ruling from the Department of Health, Education, and Welfare, since the department had no procedures whereby recipients could participate in the department's review of state welfare programs. Neither the principle of exhaustion of administrative remedies nor the primary jurisdiction had any application to the case, and there was no basis for the refusal of the district court to adjudicate the merits of the plaintiff's claims; (3) the New York statute, by eliminating special needs grants, impermissibly lowered the state's standard of need in violation of Section 402(a)(23); and (4) the plaintiffs were entitled to declaratory and injunctive relief, but New York was entitled to an opportunity to revise its program in accordance with the requirements of Section 402(a)(23) if it wished to do so.

The Power of Congress and Review by Welfare Recipients

Congress has not foreclosed judicial review to welfare recipients who are most directly affected by the administration of the program, and it is the duty of the federal courts to resolve disputes as to whether federal funds allocated to the states for welfare programs are properly expanded. As Justice Cardozo stated, speaking for the court in *Helvering v. Davis*: "When [federal] money is spent to promote the general welfare, the concept of welfare or the opposite is shaped by Congress, not the state."[11]

Equal Protection and Statutory Claims

Wyman v. Rothstein,[12] 398 U.S. 275 (1970), involved an action that was brought in the federal district court challenging equal protection on statutory grounds, § 131(a) of the New York Social Security Law. It was brought by the aged, blind and disabled recipients. The New York Social Security Law provided for payments to welfare recipients in Nassau, Suffolk, and thirty other New York counties in lesser amounts than provided for residents of New York City. A three-

[11] 301 U.S. 619, 645 (1937).
[12] 398 U.S. 275 (1970).

judge court warranted and issued a preliminary injunction against the payment of welfare in violation of the Equal Protection Clause of the Fourteenth Amendment. However, the court found it unnecessary to consider the appellees' statutory claims (probable jurisdiction was sought). It was the opinion of the three judge court that the District Court should have considered the appellees' statutory claims.

Judgment by the district court was vacated and the case was remanded for an opportunity to pass under priority of granting interim relief in accordance with conventional equitable principles or on the basis of appellees' statutory claims. It is interesting to note that subsequent to the decision of the district court in this case, the same court rendered its decision in *Rosado v. Wyman, supra,* holding that a federal court called upon to pass upon the constitutional validity of a state welfare program should, before reaching the constitutional issue, consider first any statutory claims that are presented, notwithstanding the pendency of negotiations between the state and the Department of Health, Education, and Welfare.[13]

THE SUBSTITUTED FATHER

King v. Smith, supra, deals with the term known as the "substitute father." In this case, Alabama had a regulation which denied AFDC payments to children of a mother who "cohabitated or cohabitates in or outside her home with any single or married man." A three-judge district court granted the plaintiff declaratory and injunctive relief, finding the regulation to be inconsistent with the Social Security Act and the Equal Protection Clause of the Fourteenth Amendment. The United States Supreme Court affirmed the holdings that: (1) a three-judge district court was properly convened and (2) the Alabama regulation was invalid because it conflicted with the AFDC provisions of the Social Security Act and federal policy both insofar as it was based on the state's asserted interest in discouraging illicit sexual behavior and illegitimacy, and insofar as it defined the term "father" as including a person who did not owe to the child a state-imposed legal duty to support. Pendent jurisdiction was noted.[14]

Also, similar to the opinion in the above case, is *Lewis v. Martin*[15]

[13] Lampton v. Bonin, 397 U.S. 663 (1970).

[14] For further information on jurisdiction, see 28 U.S.C. § 1343(3) and (4). For similar holdings, see Solomon v. Shapiro, 396 U.S. 5 (1969).

[15] 397 U.S. 552 (1970).

which deals with the man-in-the-house rule. Here, the court held that the Health, Education, and Welfare regulation was valid and that in essence approved the actual contribution. California could not consider a child's resources to include either the income of a non-adoptive natural parent, or the income of a man assuming the role of spouse, whatever the nature of his obligation to support. Justices Black and Berger in their dissenting opinion stated that since the Department of Health, Education and Welfare had primary jurisdiction over the issues involved, and the administrative procedures provided by the Social Security Act had not been exhausted the district court did not have jurisdiction over the case.

It is not reasonable to infer that a man assuming the role of the spouse will contribute to the support of the mother and her needy child.[16] This case is extremely important because it spells out that Congress has specifically delegated to the Secretary of Health, Education, and Welfare the authority to implement the particular aspects of how "other income and resources" are to be considered under 42 U.S.C. Sec. 602(a)(7).

Two Basic Factors in Determining Aid to Families with Dependent Children Benefits

There are two basic factors that enter into the determination of what AFDC benefits will be paid. First, it is necessary to establish a "standard of need," a yardstick for measuring who is eligible for public assistance. Second, there must be decided how much assistance will be given, that is, what "level of benefits" will be paid. On both factors, Congress has already left to the states a great deal of discretion. *King v. Smith, supra.* Thus, some states include in their "standard of need" items that others do not take into account. Diversity also exists with respect to the level of benefits in fact paid. Some states imposed a so-called dollar maximum on the amount of public assistance payable to any one individual or family. Such maximums establish the upper limit irrespective of how far short the limitation may fall from the theoretical standard of need.[17] Other states curtail the payment of benefits by a system of "ratable reductions" whereby all recipients will receive a fixed percentage of the standard of need.

[16] 17 Stan. L. Rev. 614; 54 Cal. Rev. 748.

[17] Rosado v. Wyman, 397 U.S. at 409 (1970). (N. 13; New York reported to pay 100 per cent.)

States Receiving Federal Funds and Standing

As long as a state is receiving federal funds, it is under a legal requirement to comply with the federal conditions placed on the receipt of those funds; and individuals who are adversely affected by the failure of the state to comply with the federal requirements in distributing those funds are entitled to a judicial determination of such claim. *King v. Smith, supra.*

All welfare recipients have standing to enforce the conditions of the Social Security Act, Title IV, and any state law or regulation inconsistent with such federal terms and conditions.[18]

Liens and Assignments

Snell v. Wyman,[19] is a case of great significance because it sets out that a welfare agency in the state of New York would not be in violation of the law if it placed a lien on the welfare recipient's ownership in real property nor would it be in error or violation of the law if it placed a lien on the potential or actual recoveries for personal injuries. In addition, the welfare agency of our State can take an assignment of the interest of an insured recipient in a life insurance policy. In the instant case, the court held that this would not be in violation of the law because there was a statute which exempted wages and salaries from repayment obligation. The statutes the plaintiffs attacked reached only property already owned or to acquisitions, which have more or less the character of "windfalls"—at least in the sense that such acquisitions do not come from purposeful efforts to "attain or retain capability for self-support or self-care."[20] It was noted in this case that the federal statutes said nothing about repayment, except to recognize and make provisions for at least some form of recovery for some people who have received assistance. In *Donoho v. O'Connell's, Inc.*,[21] the court said that where the statute does not provide comprehensively for a lien upon all potential assets that might be or become available to a recipient, it is enough if selection of subject for inclusion and exclusion is left upon a rational basis. This view is also supported by the courts in *Dandridge v. Williams, supra.* In view of this fact, the court took the view that a state does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification had some

[18] Shapiro v. Thompson, 394 U.S. 618 (1969).
[19] 393 U.S. 323 (1969).
[20] 42 U.S.C. § 1351.
[21] 18 Ill. 2d 432 (1960).

"reasonable basis," it does not offend the Constitution simply because the classification "is not made with mathematical nicety or because in practice it results in some inequality."[22] The court stated clearly that "a statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it."[23]

I think it is significant to note that the court said that the Fourteenth Amendment does not give the federal court the power to impose upon the states its views of what constitutes wise economic or social policy.[24]

States with Provisions for Repayment

Thirty-two states say that they are in agreement with the *Snell* case because they have adopted similar laws. The following cases were cited which rejected constitutional attacks generally similar to those surmounted by the plaintiff in *Snell: Lalic v. Chicago, Burlington and Quincy R.R.*,[25] *Noonan v. Child*,[26] *Beck v. Buena Park Hotel Corp.*,[27] and see Characteristics of the State Public Assistance Plan under the Social Security Act,[28] for reports from forty-four states.

Discriminatory Statutes and Relief First Sought Under the Civil Rights Act

Shapiro v. Thompson, supra, dealt with welfare recipients' right to receive assistance. The plaintiffs in this case had to wait one year before they could receive aid from any welfare agency if they were coming from another state or county. The court held that:

(1) Absent a compelling state interest, the Connecticut and Pennsylvania statutory provisions violated the Equal Protection Clause of the Fourteenth Amendment by imposing a classification of welfare applicants which impinged upon their constitutional right to travel freely from state to state;

(2) Absent a compelling governmental interest, the district court of the District of Columbia statutory provision violated the due process clause of the Fifth Amendment by imposing a discrimination which impinged upon the constitutional right to travel;

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[22] Lindfley v. Natural Carbonic Gas Company, 220 U.S. 61, 78 (1911).
[23] McGowan v. Maryland, 366 U.S. 420 (1961).
[24] See "Developments in the Equal Protection Law," 82 Harvard L. Rev. 1065, 1082-1087.
[25] 263 F. Supp. 987 (1967).
[26] 254 P.2d 1066 (1953).
[27] 196 N.E.2d 689 (1964).
[28] Public Assistance Report No. 50, U.S. Department of Health, Education & Welfare, 1964 Ed.

(3) Section 402(b) of the Society Security Act of 1935 did not, and constitutionally could not, authorize the state to withhold such one-year waiting period requirements.

In *Damico v. California*[29] the Supreme Court held that relief from the Civil Rights Act may not be defeated because relief was not first sought under state law which provided an administrative remedy. Also, the California welfare laws were held to be unconstitutional because they were discriminatory and were being administered in such a manner as to deprive the plaintiff of his equal rights secured by the federal Constitution.

Termination Before Hearings and by Home Visitations

In *Goldberg v. Kelly*[30] the plaintiff challenged the constitutional adequacy of the New York City hearing procedures, alleging that such procedures denied him due process. The Supreme Court of the United States confirmed the district court holding. It stated that

(1) Procedural due process under the Fourteenth Amendment requires that the welfare recipient be afforded an evidentiary hearing before termination of benefits by welfare authorities.

(2) New York procedures involving a post-termination hearing did not meet such requirements, interest of an eligible recipient in uninterrupted receipt of public assistance, coupled with the state's interest that his payments should not be erroneously terminated outweighing the state's countervailing interest in conserving fiscal and administrative resources.

(3) Although the approach of pre-termination hearings need not take the form of a judicial or quasi-judicial trial, or include a complete record or comprehensive opinion, it was required to meet maximum procedural safeguards demanded by rudimentary due process, which included affording the recipients the opportunity to confront and cross-examine witnesses relied upon by the welfare department, to retain any attorney if he so desires, and to present oral evidence to an impartial decisionmaker, whose conclusion must rest solely on the legal rules of evidence adduced at the hearing.

[29] 389 U.S. 415 (1967).
[30] 397 U.S. 254 (1970).

Wyman v. James,[31] is an interesting case that involves termination of aid to welfare recipients who refused to permit welfare officials to enter their homes. The court held that where the basic purpose of a home visit is to ascertain actual residence, family composition, physical well being of children, and giving help in management of home, such could be equally achieved by means other than visits to the home. Officials could obtain needed information from leases, birth certificates, and periodic medical examinations. However, if officials felt search of private property was necessary in particular cases, they could make application for search warrants. On appeal, the appellee's motion for leave to proceed in forma pauperis was granted and stay was denied (probable jurisdicton was noted).

Conclusion

Dandridge v. Williams, supra, is one of the recent leading cases regarding AFDC recipients. The United States Supreme Court revised the District Court of Maryland decision and held that "maximum grant" regulation was not inconsistent with the Social Security Act and was not violative of the Equal Protection Clause. The instant case defines such terms as dependent child and eligibility. Before any AFDC recipient can receive aid, he must fall within the meaning of these terms. Also, in order for the court to settle any matter as between the recipient or state, the court must have the proper jurisdiction (pendent or probable, etc.). Contrary to the holdings in *Dandridge v. Williams, supra, Rosado v. Wyman, supra,* held that the New York statute by eliminating special needs grants, impermissibly lowered the state's standard of need which was in violation of the Equal Protection Clause and Section 402(a)(23) of the Social Security Act. Therefore, the plaintiffs were entitled to declaratory and injunctive relief. In addition, the same court in *Wyman v. Rothstein, supra,* held that a federal court called upon to pass on constitutional validity of a state's welfare program should, before reaching the constitutional issue, consider first any pendent statutory claims notwithstanding the pendency of negotiations between the state and the Department of Health, Education, and Welfare. The terminology of a substituted-father or man in the house was pointed out in *King v. Smith, supra,* and *Lewis v. Martin, supra.*

The courts will not allow a state regulation to prevail which denies children (AFDC) payments, simply because the mother chooses to

[31] 397 U.S. 904 (1969).

"cohabitate" in or outside the home with any single or married man. Nor will it allow a state statute to prevail if it precludes payments to the child simply because a man is living with the spouse. In this type of situation, there has to be actual proof of contribution. If such proof cannot be found, then a denial would deprive the recipient of his rights to receive aid. Welfare applicants are entitled to receive payments if they meet the requirements set out in the Social Security Act. The state cannot restrict the child nor the parent of this right by imposing one-year waiting or resident requirements, see *Shapiro v. Thompson, supra,* and *Wyman v. Bowens, supra.* Generally, discrimination is not upheld by the Supreme Court when a similar act to that of the above is alleged. The United States Supreme Court in *Damico v. Californa, supra,* said that it would also be discriminating if the court denied a welfare recipient relief because he did not seek relief first under the state law. Recently, there have been a few cases decided in the United States Supreme Court regarding termination of welfare recipients' benefits. The majority of the cases decided seem to hold that before terminating any recipients there must be an evidentiary hearing before welfare authorities and that welfare officials should not terminate recipients if they refuse entry into their homes without a search warrant. *Goldberg v. Kelly, supra,* and *Wyman v. James, supra.*

JOSEPH L. ASKEW

Civil Arrest in North Carolina

At common law, one's creditor had an absolute right to have him arrested and imprisoned until his debt was paid.[1] Upon his arrest before judgment, the debtor could give bail as an assurance of his appearance in court. A failure to do so resulted in his confinement in jail until judgment was rendered, and if he then failed to pay the debt, he was subject to body execution—a fate which caused the debtor to be thrown in jail until the debt was paid. More often than not the penniless debtor remained there until his death as the creditor rarely intervened since a release of the judgment constituted a satisfaction of the judgment.[2]

In order to be rid of these harsh debtor laws, English immigrants crossed the Atlantic and underwent other innumerable hardships. As a

[1] 4 Am. Jur., Arrest § 52 (1936).

[2] ———, Arrest and Imprisonment in Civil Actions in New York, 26 N.Y.U.L. Rev. 172 (1951).