If you face incarceration for non-payment of criminal justice debt, you should seek legal counsel and press your constitutional rights. The government should not imprison you because you cannot afford to pay a debt. The U.S. Supreme Court has ruled that it is unconstitutional to imprison you for debt without a meaningful consideration of your ability to pay or the availability of alternative punishments.

Nevertheless, not all courts in practice consider your ability to pay and some do so only in a cursory or inadequate manner. This is where having a lawyer can help. You can ask the court to appoint a free attorney for you, or contact your local public defender office, legal services office, or bar association for help finding an attorney.

If you do not have an attorney, you should tell the court that you are unable to pay the court debt and should not be punished for that reason. Be prepared to explain why you cannot afford the debt, and to provide evidence of your inability to pay, such as proof of your income, necessary expenses for yourself and your family, receipt of public benefits, outstanding debts, and reasons you have been unable to work or to earn more, such as disability, incarceration, childcare obligations, or unsuccessful efforts to get a new job.

The more information and details you document the better. Documenting your financial circumstances is not an assessment of character. In most cases, honestly conveying financial hardship will help you and will not result in more jail time due to your inability to pay.

Source: National Consumer Law Center, Surviving Debt [50th NCLC Anniversary Edition], updated at www.nclc.org/library
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