A defendant facing revocation of a suspended prison sentence for nonpayment of debt can raise as a defense the lack of appointed counsel during the underlying criminal proceeding. In *Alabama v. Shelton*, the U.S. Supreme Court concluded that courts may not impose a suspended sentence that may result in imprisonment, and may not activate a suspended sentence of incarceration, without having afforded an indigent defendant appointed counsel during the initial criminal proceeding. Courts rely on this ruling to bar imposition of a suspended sentence conditioned on payment of court fines or fees if the defendant did not have counsel or waived the right to counsel during the underlying criminal proceeding.

**Footnotes**

90 [133] *Alabama v. Shelton*, 535 U.S. 654, 658, 662, 122 S. Ct. 1764, 152 L. Ed. 2d 888 (2002) (“[w]e hold that a suspended sentence that may ‘end up in the actual deprivation of a person’s liberty’ may not be imposed unless the defendant was accorded ‘the guiding hand of counsel’ in the prosecution for the crime charged”; concluding also that, when “the State provides no counsel to an indigent defendant,” the constitution does not “permit activation of a suspended sentence upon the defendant’s violation of the terms of probation”).