

In *Turner v. Rogers*, 387 S.C. 142 (2011), the Supreme Court changed access to the courts. We describe *Turner's* holdings and suggest a post-*Turner* reform agenda.

The Court's holdings:

- **Trial court judges must assure due process for unrepresented litigants in civil cases.** Judges must first determine the process due by analyzing the three factors in *Mathews v. Eldridge*, 424 U.S. 319 (1976): i) “nature of the private interest,” ii) “risk of an erroneous deprivation,” and iii) “any countervailing interest.” They must then provide it.
- **Counsel may be required:** Where the government is a party, the other side has counsel, and/or the case is complicated, a right to counsel may be required, under *Mathews*, in child support civil contempt cases, in other categories of civil cases, or in an individual's case. In child support civil contempt cases in which the other side is without counsel, the trial court need not automatically appoint counsel.
- **Procedural safeguards are required if counsel is not provided:** Due process is satisfied if “the state provides alternative procedural safeguards equivalent to . . . adequate notice of the importance of ability to pay, fair opportunity to present, and to dispute, relevant information, and court findings.” The Court remanded Michael Turner's individual case to assure his receipt of these protections.

The reform agenda:

- Work to preserve state-based rights to counsel in child support contempt cases.
- Pursue a categorical federal constitutional right to counsel in cases in which the government is a party, the other side has counsel, or the matter is complex, such as in some civil contempt, immigration, and/or public housing proceedings.
- Seek appointment of counsel in individual cases, including by filing appeals in cases in which counsel was not provided at the trial level.
- Advocate for “alternative procedural safeguards” that are effective.
- Pursue increased coordination between courts and legal aid programs to help ensure that litigants have access to the courts.

The National Center for Access to Justice pursues reform that enables people to count on the American justice system to protect themselves and their families.