

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

STANDARD

"To survive a motion to dismiss" under Federal Rule of Civil Procedure 12(b)(6), "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The complaint must include enough factual allegations "to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555. In other words, the factual allegations must "raise a reasonable expectation that discovery will reveal evidence of" the plaintiff's claims. *Id.* at 556. But "Rule 12(b)(6) does not permit dismissal of a well-pleaded complaint simply because 'it strikes a savvy judge that actual proof of those facts is improbable.'" *Watts v. Fla. Int'l Univ.*, 495 F.3d 1289, 1295 (11th Cir. 2007) (quoting *Twombly*, 550 U.S. at 556).

FACTUAL ALLEGATIONS

The Court accepts the allegations in Plaintiffs' Complaint as true for purposes of the pending motion. Plaintiffs allege the following:

I. Conditions in Stewart Detention Center

Stewart County, Georgia has an intergovernmental services agreement with United States Immigration and Custom Enforcement to house immigration detainees like Plaintiffs. Compl. ¶ 13, ECF No. 1. Stewart County contracts with CoreCivic, a for-profit

to the commissary to purchase basic necessities and phone cards.
Id. ¶ 58.

II. Stewart's "Voluntary Work Program"

CoreCivic operates a "voluntary work program" at Stewart.
Id. ¶ 27. CoreCivic assigns program participants to various jobs in the facility. *Id.* ¶ 29. Responsibilities include scrubbing bathrooms, cleaning the medical center, preparing meals, washing detainees' laundry, and cleaning floors. *Id.* ¶ 30. CoreCivic generally pays detainees in the amount of \$1-9()850 and \$4

CoreCivic with a cheap supply of labor to operate the facility, thereby enabling CoreCivic to increase its profits. *Id.* ¶¶ 1-2, 59-60. According to Plaintiffs, this scheme operates as follows: (1) CoreCivic deprives detainees of basic necessities, including toothpaste, soap, toilet paper, privacy, safety, and contact with loved ones; (2) detainees must participate in the voluntary work program to move to humane accommodations and to earn money to purchase necessities at the commissary; and (3) once detainees are

alleges that CoreCivic actually put him in solitary confinement for ten days for threatening a work stoppage after he had not been paid. *Id.* ¶

(a) Who[] knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means-

(1) following means

conduct prior to December 23, 2008 are barred. These arguments are addressed in turn.

A. Plaintiffs Stated Claims under the Plain Language of the TVPA

CoreCivic argues that the TVPA is intended to apply narrowly to forced labor in the human trafficking context and that applying it to detainee work programs is "absurd" and contrary to the intentions of Congress. CoreCivic's argument has superficial appeal and some support from the TVPA's legislative history. But it ignores the plain language of the statute. It also misunderstands "the absurdity doctrine," which is a narrow exception to the fundamental principle that statutory interpretation must be anchored to the plain language of the statute.

CoreCivic points to evidence of congressional intent in support of its position. See 22 U.S.C. § 7101 (setting forth the congressional purposes and findings regarding the TVPA); *id.* § 7101(a) ("The purposes of this chapter are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims."). But when interpreting a statute, the Court must presume that Congress says what it means and means what it says. *Capp. Navøn Bapm x. Germain*, 503 U.S. 249, 253-54 (1992). If Congress intended the

TVPA to apply narrowly to human traffickers or human trafficking-related labor only, it could have easily limited § 1589 or § 1595 to those circumstances by saying so in those sections of the Act. Congress placed no such restriction in the statute but chose

grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified so as to avoid that absurdity and inconsistency, but no farther." *Grey v. Pearson*, (1857) 10 Eng. Rep. 1216, 1234; 6 H.L. Cas. 61, 106 (Lord Wensleydale).

The absurdity doctrine, however, does not authorize "judicial revision of public and private texts to make them (in the judge's view) more reasonable." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 237 (2012). To avoid such judicial mischief, the doctrine has two limiting conditions: (1) "[t]he absurdity must consist of a disposition that no reasonable person could intend;" and (2) "[t]he absurdity must be reparable by changing or supplying a particular word or phrase whose inclusion or omission was obviously a technical or ministerial error." *Id.* at view

history outlining the motivation for the enactment of the statute. Thus, it asks the Court rewrite the statute by effectively adding a provision stating, "this statute shall not apply to anyone who uses labor of detainees who are lawfully detained pursuant to a

initiate criminal proceedings against detainees when detainees refused to work. *Id.* ¶ 111. If discovery reveals that CoreCivic made no such threats, then summary judgment will be proper. But at this stage, Plaintiffs have plausibly alleged a claim under the “legal process” prong of the TVPA.

C. Plaintiffs Stated TVPA Claims for Conduct Prior to December 23, 2008

When Congress first enacted the TVPA in 2000, it did not authorize a private right of action for violation of its provisions. *See generally* Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464. Congress amended the TVPA in 2003 to provide a private right of action against “perpetrators” of TVPA violations. Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875. Congress amended the TVPA again in December 2008 to expand the class of individuals against whom a private right of action could be brought. After the 2008 amendments, a plaintiff could bring a TVPA claim not only against “perpetrators,” but also against “whoever knowingly benefits” financially or otherwise from a scheme they knew or should have known violated the TVPA. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044.

CoreCivic characterizes Plaintiffs’ TVPA claims as arising exclusively under this “financial benefit” prong of the TVPA’s

private right of action provision. See 18 U.S.C. § 1595(a). Therefore, it contends that Plaintiffs cannot state a TVPA claim for conduct prior to December 23, 2008 (the date Congress expanded the TVPA's private right of action). But Plaintiffs' Complaint arguably alleges a cause of action against CoreCivic as both a perpetrator and as a financial beneficiary. See Compl. ¶ 104 ("Plaintiffs are authorized to bring this [TVPA] claim . . . because CoreCivic violated the forced labor provisions of [§ 1589]."); *id.* ¶ 105 ("Plaintiffs . . . also are authorized to bring this [TVPA] claim . . . because CoreCivic knowingly benefitted financially" from the deprivation scheme (emphasis added)). Therefore, to the extent Plaintiffs' TVPA claim is premised on CoreCivic actually perpetrating TVPA violations as opposed to only benefitting financially from violations, this claim may encompass conduct as early as 2003, subject to the applicable statute of limitations. But CoreCivic cannot be liable for only knowingly benefitting from the deprivation scheme until after December 23, 2008.³

³ The Court notes that Plaintiffs' proposed TVPA class is defined as all participants in the voluntary work program "within the past ten years up to the date the class is certified." Compl. ¶ 94(a). Plaintiffs filed this action on April 17, 2018. And the Court has not yet certified the class. Therefore, unless the class is certified before December 23 of this year, Plaintiffs' TVPA claims will effectively be limited to conduct occurring after the 2008 amendments anyway.

II. Unjust Enrichment Claims

Plaintiffs assert claims under Georgia law for unjust enrichment. "The concept of unjust enrichment in law is premised upon the principle that a party cannot induce, accept, or encourage another to furnish or render something of value to such party and avoid payment for the value received." *Vernon v. Assurance Forensic Accounting, LLC*, 774 S.E.2d 197, 212 (Ga. Ct. App. 2015) (quoting *Jones v. White*

Here, Plaintiffs allege that CoreCivic coerced them to provide labor to CoreCivic, that CoreCivic benefitted from that labor, and that CoreCivic should compensate Plaintiffs for the benefit they conferred on CoreCivic because allowing CoreCivic to keep that benefit would be unjust. The Court cannot say that Georgia would not recognize an unjust enrichment claim under these circumstances. Accordingly, CoreCivic's motion to dismiss Plaintiffs' unjust enrichment claims is denied.

CONCLUSION

Based on the foregoing, CoreCivic's motion to dismiss (ECF No. 30) is denied.

CERTIFICATE FOR IMMEDIATE APPEAL

Whether the TVPA applies to work programs in federal immigration detention facilities operated by private for-profit contractors is a controlling question of law as to which there is substantial ground for difference of opinion. The Court today finds that the TVPA does apply under the circumstances alleged in Plaintiffs' Complaint. This determination thus allows this litigation to proceed which will not only involve extensive fact discovery but also class certification proceedings. If the Court's conclusion is wrong and the primary (maybe only) basis for federal jurisdiction is removed, these subsequent proceedings will have been for naught. Therefore, an immediate appeal may materially advance the ultimate termination of the litigation. Of course, if

today's order is affirmed, these proceedings will have arguably been unnecessarily delayed. But given the nature of the issue to be decided on appeal and the implications of today's ruling, the undersigned is of the opinion that an immediate appeal is appropriate pursuant to 28 U.S.C. §1292(b). All proceedings in this Court are stayed pending resolution of any application for interlocutory appeal.

IT IS SO ORDERED, this 17th day of August, 2018.

S/Clay D. Land

CLAY D. LAND

CHIEF U.S. DISTRICT COURT JUDGE
MIDDLE DISTRICT OF GEORGIA