

Before HULL and MARCUS, Circuit Judges, and ROTHSTEIN,* District Judge.

HULL, Circuit Judge:

In this case, Appellees Wilhen Hill Barrientos, Margarito Velazquez-Galicia, and Shoaib Ahmed, current and former alien detainees, brought a class action lawsuit against Appellant CoreCivic, Inc., a private contractor, which owns and operates the Stewart Detention Center in Lumpkin, Georgia (“Stewart”). Stewart is a federal immigration detention facility where aliens are held during the pendency of removal proceedings or for other reasons related to enforcement of the nation’s immigration laws. At Stewart, CoreCivic, as a private contractor, is required to operate what is referred to as a “voluntary work program,” through which detainees may perform work for compensation.

Appellees’ complaint alleged that, far from operating a “voluntary” work program, CoreCivic coerces alien detainees to perform labor at Stewart by, inter alia, the use or threatened use of serious harm, criminal prosecution, solitary confinement, and the withholding of basic necessities. Appellees’ complaint asserted that CoreCivic’s labor scheme violated, and continues to violate, the forced-labor prohibition in the Trafficking Victims Protection Act (“TVPA”), 18 U.S.C. §§ 1589, 1594–95, and Georgia law. The TVPA subjects to criminal and

*Honorable Barbara J. Rothstein, United States District Judge for the Western District of Washington, sitting by designation.

civil liability “

legal question of the TVPA’s applicability to private contractors operating federal immigration detention facilities, we do not at this time address whether the factual allegations in the complaint are sufficient to state a TVPA claim.

I. BACKGROUND

The question certified by the district court concerns the TVPA and work programs in federal immigration detention facilities. We review the TVPA, the relevant work programs, and then the district court proceedings.

A. The TVPA

The TVPA prohibits knowingly “obtain[ing] the labor or services of a person” by any one of, or combination of, the following means:

- (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;
- (2) by means of serious harm or threats of serious harm to that person or another person;
- (3) by means of the abuse or threatened abuse of law or legal process;
or
- (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or

In turn, § 1595(a) provides a private cause of action for any victim of a violation of § 1589. 18 U.S.C. § 1595(a). Under § 1595(a), “[a]n individual who is a victim of a violation” of the TVPA “may bring a civil action against the perpetrator,” as well as against anyone who “knowingly benefits, financially or by receiving anything of value,” from any such violation. Id.

B. Work Programs in ICE Detention Facilities

U.S. Immigration and Customs Enforcement (“ICE”) detains certain aliens during the pendency of removal proceedings or for other reasons related to enforcement of the nation’s immigration laws. ICE detains some of those aliens in facilities operated by private contractors. Appellant CoreCivic is a private contractor that operates several detention centers throughout the country, including the Stewart Detention Center in Lumpkin, Georgia, where Appellees were or are being held.¹

CoreCivic, as a private contractor operating an ICE detention facility, is subject to, and required to follow, the Performance-Based National Detention Standards (“PBNDS”), the operative version of which was promulgated in 2011 and revised in 2016. See U.S. Immigration & Customs Enf’t, Performance-Based National Detention Standards 2011 (rev. 2016), available at

¹CoreCivic operates the Stewart Detention Center through a contract with Stewart County, Georgia. The County is a party to an Intergovernmental Service Agreement with ICE, pursuant to which it detains aliens on ICE’s behalf.

<https://www.ice.gov/doclib/detention->

least \$1.00 per day),

cells, a shared common area, a bathroom shared with only one other cellmate, and a shower with temperature control. Appellees' complaint al

[under § 1292(b)] applies to the order certified to the court of appeals, and is not tied to the particular question formulated by the district court.” Yamaha Motor Corp., U.S.A. v. Calhoun, 516 U.S. 199, 205, 116 S. Ct. 619, 623 (1996). Thus, while we “may not reach beyond the certified order,” we “may address any issue fairly included within the certified order.” Id. That said, we think it appropriate to limit our review to the discrete and abstract legal issue the district court identified. See McFarlin v. Conseco Servs., LLC, 381 F.3d 1251, 1259 (11th Cir. 2004) (“The legal question must be stated at a high enough level of abstraction to lift the question out of the details of the evidence or facts of a particular case and give it general relevance to other cases in the same area of law.”).

Because we limit our review to the discrete and abstract legal issue of the TVPA’s applicability to a certain class of cases, we are not concerned with the specific factual allegations in the complaint, apart from the nature of the parties (legally detained immigrants seeking to assert claims against a private, for-profit, government contractor) and, to a lesser extent, the fact that the claims arise out of the operation of a work program required by the PBNDS. In other words, we do not address whether the complaint in this case sufficiently alleged a violation of the TVPA, assuming it applies to private contractors like CoreCivic. We also do not offer any opinion on CoreCivic’s operation of work programs generally. Indeed, we decline to address the adequacy of the complaint—or any other fact-intensive

inquiry—at this stage in the litigation. See Mamani v. Berzain, 825 F.3d 1304, 1312–13 (11th Cir. 2016) (declining to address, in an interlocutory appeal, whether a complaint stated a claim for relief under the Torture Victim Protection Act because the issue did not ask the court “to decide a pure or abstract question about the TVPA itself”).⁴

B. Analysis

As to the discrete legal question before us, CoreCivic has not asked us to adopt a construction of the statute that would exempt federal contractors from any and all liability under the TVPA. Rather, CoreCivic asks us to hold that the TVPA (specifically § 1589) can never apply in the specific context of a “federally mandated voluntary work program in a detention setting,” even where the work performed through that program is obtained through, for example, force, physical restraint, or threats of serious harm. CoreCivic insists that its construction of the

⁴We deny Appellees’ request to set aside the motions panel’s order granting Appellant CoreCivic permission to appeal. We recognize that, like any decision made by a motions panel, a petition for interlocutory review under § 1292(b) may be improvidently granted. See 11th Cir. R. 27-1(g); McFarlin, 381 F.3d at 1253. Appellees insist that CoreCivic essentially asks us to consider fact-driven issues not appropriate for review under § 1292(b) and that, contrary to the district court’s conclusion, the unambiguous language of the statute leaves no room for a substantial difference of opinion.

However, we agree with the district court that its order involves a pure question of law that controls at least a substantial part of the case and about which there is substantial ground for a difference of opinion, and that its resolution may well substantially reduce the amount of litigation necessary on re

statute would be consistent with the text, structure, and purpose of the TVPA. In support of its argument, CoreCivic points to: (1) the text of § 1589, particularly the requirement that one “obtain[]

As laid out above, the TVPA creates a cause of action—both criminal and civil—against “[w]hoever knowingly provides or obtains the labor or services of a person” by various illegal coercive means. 18 U.S.C. §§ 1589(a), 1595(a). We, like the district court, find this language to be “plain and unambiguous.” See St. Amour, 886 F.3d at 1013. The use of the general terms “[w]hoever” and “person” evinces no intent on the part of Congress to restrict the application of the statute to particular actors or particular victims. Instead, the clear and unambiguous language of the statute limits liability only by reference to the actions taken by a language Tgu l

Amperitus the per so”ss rogy An father or id 521.2.(5)

Despite the statute's use of general terms to describe its coverage, CoreCivic asks us to read into the statute a limiting principle: that Congress could not have intended alien detainees participating in voluntary work programs to sue and make use of this statute. But “the presumed point of using general words

of the statute ex

denied, 140 S. Ct. 157 (2019).⁶ We do acknowledge CoreCivic’s arguments concerning the purpose and legislative history of the TVPA, but where, as here, the statutory text is not ambiguous, “[o]nly the most extraordinary showing of contrary intentions in the legislative history will justify a departure from [the statutory] language.” United States v. Albertini, 472 U.S. 675, 680, 105 S. Ct. 2897, 2902 (1985) (quotation marks omitted); see also Garcia v. United States, 469 U.S. 70, 75, 105 S. Ct. 479, 482 (1984) (“When we find the terms of a statute unambiguous, judicial inquiry is complete, except in rare and exceptional circumstances.” (quotation marks omitted)). We do not find any such extraordinary showing of contrary intentions here.

As CoreCivic correctly points out, Congress enacted the TVPA as part of the Victims of Trafficking and Violence Protection Act of 2000 “to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of

but cite them to show that federal courts have concluded that § 1589 is not limited to cases of overt human trafficking.

IV. CONCLUSION

For the reasons stated above, we affirm the district court's denial of CoreCivic's motion to dismiss Appellees' complaint, and hold that the TVPA applies to private for-profit contr

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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February 28, 2020

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 18-15081-GG
Case Style: Shoaib Ahmed, et al v. CoreCivic Inc
District Court Docket No: 4:18-cv-00070-CDL

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_voucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Pursuant to Fed.R.App.P. 39, each party to bear own costs.

Please use the most recent version of the Bill of Costs form available on the court's website at www.ca11.uscourts.gov.

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call Joseph Caruso, GG at (404) 335-6177.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Jeff R. Patch
Phone #: 404