

No. 18-6047

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee

v.

CURTIS A. ANTHONY,
Defendant-Appellant.

On Appeal from the United States District Court
for the Western District of Oklahoma
The Honorable Robin J. Cauthron, District Judge
No. 5:15-cr-00126-C-5

**BRIEF OF THE HUMAN TRAFFICKING INSTITUTE
AS AMICUS CURIAE IN SUPPORT OF
PLAINTIFF-APPELLEE AND AFFIRMANCE**

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CORPORATE DISCLOSURE STATEMENT

The Human Trafficking Institute (“the Institute”) is a nonprofit nonstock corporation. The Institute does not have a parent corporation, and no publicly held corporation owns 10 percent or more of its stock.

CONSENT TO FILE UNDER FRAP 29(a)(2)

The Human Trafficking Institute has sought the consent of all parties in this case to the filing of the proposed *amicus curiae* brief. Both parties granted written consent to the Institute’s filing of the *amicus curiae* brief on October 31, 2018.

This brief was authored and funded solely by the Institute. This brief was not authored, in whole or in part, by a party’s counsel in this matter. Furthermore, no party or party’s counsel contributed money to fund the preparation or submission of this *amicus curiae* brief, nor did any person outside of the Institute contribute money to fund the preparation or submission of this brief.

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18 U.S.C. § 2259(b)(3)3, 4

18 U.S.C. § 36649

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18 U.S.C. § 3664(h)9

S. Rep. No. 104-179 (Dec. 1995), *as reprinted in* 1996 U.S.C.C.A.N. 92412, 13

Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386,
114 Stat. 1464 (2000).3

COURT DOCUMENTS

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Complaint, *United States v. White et al*, No. 7:18-MJ-0090 (W.D. Tex. January 4,
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Indictment, *United States v. Leoney et al*, No. 1:07-cr-101662 (D. Mass. May 16,
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Vincent J. Felitti et al, *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults*, 14 Am. J. Prev. Med. 245 (1998)6

William E. Nolan, *Mandatory Restitution: Complying with the Trafficking Victims Protection Act*, 65 U.S. Attorneys’ Bulletin 95 (Nov. 2017).4

IDENTITY, INTEREST, AND AUTHORITY TO FILE

The Human Trafficking Institute (the Institute) exists to decimate modern slavery at its source by empowering criminal justice systems to stop human traffickers. The Institute's leadership has extensive experience investigating, prosecuting, and training on human trafficking throughout the United States. This experience includes briefing and arguing for restitution awards for trafficking victims and addressing legal issues surrounding restitution.

In addition, the Institute created and maintains a comprehensive database of federal human trafficking cases and produces the *Federal Human Trafficking Report* each year to detail the findings. The *Federal Human Trafficking Report* includes data on restitution awards in federal human trafficking cases. In light of its findings, the Institute created a restitution resource handbook to guide attorneys and judges in the process of seeking and awarding restitution in federal human trafficking cases. These materials underscore the importance of restitution awards and their role in helping make human trafficking victims whole.

Given the Institute's expertise in and experience with restitution in federal human trafficking cases, the Institute is specially situated to aid in the Court's consideration of the legal questions surrounding the restitution order in this case. The Institute seeks to advise the Court about the complex trauma that human trafficking victims experience and the role of restitution in preventing re-

victimization. Furthermore, the Institute aims to clarify that Congress intended victims to receive restitution for the full amount of their losses and to reinforce the importance of applying joint and several liability principles to restitution orders in human trafficking cases. For these reasons, the Institute respectfully requests that the Court accept this *amicus curiae* brief.

SUMMARY OF ARGUMENT

Congress intended victims of human trafficking to receive restitution for the full amount of their losses. Restitution is particularly significant in the human trafficking context because many victims are destitute when they escape their traffickers, often lacking food, shelter, education, and job opportunities. It is also common for human trafficking victims to have long histories of being trafficked or abused because severe forms of trauma can create vulnerabilities that human traffickers exploit. Accordingly, ordering less restitution in cases involving re-victimization would frustrate Congress's intent that victims receive restitution for the full amount of their losses.

Similarly, this Court should approach restitution orders in human trafficking cases with joint and several liability principles in mind. Applying these principles means that trafficking victims are more likely to receive restitution for the full amount of their losses because the risk of insolvency shifts from the victims to the human traffickers. Further, some data suggests that trafficker buyers—i.e., those

who purchase commercial sex from human trafficking victims in violation of 18 U.S.C. § 1591—are empirically more likely to be solvent than other human trafficking defendants, so making restitution orders for convicted trafficker buyers joint and several improves victims’ chances of collecting restitution for the full amount of their losses. For these reasons, the Court should apply joint and several liability principles to restitution orders in human trafficking cases to ensure that victims are made whole for the full amount of their losses.

ARGUMENT

In October 2000, Congress passed Title A of the Victims of Trafficking and Violence Protection Act, more commonly referred to as the Trafficking Victims Protection Act (TVPA). Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000). This law requires any defendant convicted of a human trafficking offense under Chapter 77 of Title 18 of the United States Code to pay restitution for the “full amount of the victim’s losses,” as defined by 18 U.S.C. § 2259(b)(3).¹ 18 U.S.C. § 1593(a), (b)(1), (3). This amount includes the trafficker’s ill-gotten gains and the costs incurred by the

¹ Congress amended 18 U.S.C. § 2259 on December 7, 2018

. See Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, S. 2152, 115th Cong. (2018). All references to § 2259 in this brief will use the statute in effect at the time the defendant committed the offense.

victim, such as medical costs, transportation needs, temporary housing, child care, lost income, attorneys' fees, and other costs borne by the victim due to the trafficking crime. 18 U.S.C. §§ 1593(b)(3), 2259(b)(3). To help ensure victims receive full compensation for these costs, courts should avoid ordering less restitution in cases involving re-victimization and should apply joint and several liability principles to restitution awards in human trafficking cases.

I. Ordering Less Restitution in Cases Involving Re-Victimization Would Frustrate Congress's Intent that Victims Receive Restitution for the Full Amount of Their Losses.

Restitution is significant in the human trafficking context because many victims are destitute when they escape their trafficker, often lacking food, shelter, education, and job opportunities. William E. Nolan, *Mandatory Restitution: Complying with the Trafficking Victims Protection Act*, 65 U.S. Attorneys' Bulletin 95, 95 (Nov. 2017). This lack of resources leaves many victims susceptible to re-victimization at the hands of human traffickers looking to exploit their vulnerabilities. *Id.* Accordingly, the restitution award represents much more than compensation for the trauma a victim endured; it represents an opportunity to restart his or her life. *Id.* ("Restitution can be a catalyst to independence and a critical factor in a survivor's efforts to avoid re-victimization. To the federal prosecutor who has just heard a jury render a guilty verdict, the upcoming restitution hearing is the government's opportunity to change a victim's life.").

Because many human trafficking victims have been victimized in the past, ordering less restitution in these circumstances would frustrate Congress’s intent that victims receive restitution for the full amount of their losses.

A. Many Human Trafficking Victims Have Long Histories of Trauma.

It is common for human trafficking victims to have long histories of being victimized because severe forms of trauma can create vulnerabilities that human traffickers aim to exploit. *See* Institute of Medicine and National Research Council, *Confronting commercial sexual exploitation and sex trafficking of minors in the United States*, 1, 225 (Ellen Wright Clayton, Richard D. Krugman & Patti Simon eds., 2013). Examples include, *inter alia*, drug dependency, indigence, and instability in the home. *Id.* at 2, 88–89. Traffickers often use addictive drugs, debt manipulation, threats of homelessness, and other forms of non-violent coercion to control their victims more easily and less conspicuously than they could with chains or physical violence. John Cotton Richmond, *Human Trafficking: Understanding the Law and Deconstructing Myths*, 60 St. Louis U. L.J. 1, 24 (2015).

The vulnerabilities that human traffickers exploit often stem from victims suffering multiple traumatic events from a very young age—a condition some experts label “complex trauma.” Alexandra Cook et al., *Complex Trauma in Children and Adolescents* 35:5 *Psychiatric Annals* 390, 390–398 (2005). Complex

trauma is harmful to a person's physical, emotional, and psychological development. *Id.* Indeed, one study found that the more adverse experiences a person has as a child, the more health, social, and behavioral problems that person will have throughout his or her lifetime. Vincent J. Felitti et al, *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults*, 14 Am. J. Prev. Med. 245, 249–251 (1998).

Individuals, particularly children, are more likely to develop vulnerabilities when they experience multiple forms of trauma, or “poly-victimization.” Julian D. Ford, *Poly-Victimization and Risk of Posttraumatic, Depressive, and Substance Use Disorders and Involvement in Delinquency in a National Sample of Adolescents*, 46 J. Adolescent Health 545, 546 (2010). Poly-victimization is a reality for many trauma survivors. In fact, research shows that the majority of people who endure abuse or other adversity as children experience more than one type of adversity in their lifetime (*e.g.*, physical abuse, sexual abuse, substance abuse). Vincent J. Felitti et al, *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults*, 14 Am. J. Prev. Med. 245, 250 (1998). It is unsurprising, therefore, that the individuals whom human traffickers exploit have often experienced numerous other forms of abuse long before they met their trafficker.

B. Human Trafficking Victims Often Experience Trauma from Multiple Trafficking Schemes.

It is common for human traffickers to victimize those who have been trafficked in the past, exploiting the same vulnerabilities that made the victims targets for the initial trafficking scheme. Institute of Medicine and National Research Council, *Confronting commercial sexual exploitation and sex trafficking of minors in the United States*, 1, 212, 224–225 (Ellen Wright Clayton, Richard D. Krugman & Patti Simon eds., 2013). In fact, some traffickers trade victims with one another like property. *E.g.*, Indictment at 5, *United States v. Leoney et al*, No. 1:07-cr-101662 (D. Mass. May 16, 2007) (describing how a human trafficker “transported [minors] to New York, New York for a ‘toss up,’ an event wherein pimps trade prostitutes...”). Absent healthy relationships and necessary services, however, victims may continue to find themselves vulnerable to being preyed upon by other traffickers. Azhar Abu-Ali and Mona Al-Bahar, *Understanding child survivors of human trafficking: A micro and macro level analysis*, 30 *Procedia – Soc. & Behavioral Sci.* 791, 794 (2011). Indeed, minor victims who have run away from instability or abuse at home often follow promises of protection from one human trafficker to the next. *E.g.*, Complaint at 2, *United States v. White et al*, No. 7:18-MJ-0090 (W.D. Tex. January 4, 2018) (explaining how a runaway minor met her trafficker through her former trafficker).

Re-victimization also occurs, in part, because human traffickers do more than exploit *preexisting* vulnerabilities—they also *create* vulnerabilities to make their victims easier to control. For instance, human traffickers may orchestrate their victims’ lack of independence by forcing drug habits or impeding victims’ ability to go to school. Stacey Diane A. Litam, *Human Sex Trafficking in America: What Counselors Need to Know*, 7 *The Professional Counselor* 45, 46, 52 (2017). Human traffickers may also instill a fear of law enforcement that inhibits victims from seeking help. *E.g.*, Complaint at 7, *Rana v. Islam*, No. 1:14-cv-01993 (S.D.N.Y. 2014) (“[Defendants]...caus[ed] [Plaintiff] to fear that he would be arrested, detained, or killed by law enforcement authorities if he escaped”). These manipulative tactics create trauma in addition to that which victims may experience during the act of being exploited for commercial sex.² In this way, human traffickers can exacerbate the complex trauma and poly-victimization of their victims, making victims vulnerable to future trafficking schemes. Institute of Medicine and National Research Council, *Confronting commercial sexual exploitation and sex trafficking of minors in the United States*, 1, 121 (Ellen Wright Clayton, Richard D. Krugman & Patti Simon eds., 2013). If the Court adopts a practice of reducing restitution awards in cases involving past victimization, many

² Although this brief focuses on sex trafficking, trauma similarly impacts victims of labor trafficking.

victims of sex trafficking will not receive restitution for the full amount of their losses and will be more vulnerable to an ongoing cycle of victimization.

II. Joint and Several Liability Principles Are Critical to the Efficacy of Restitution.

Congress intended for human trafficking victims to receive restitution for the *full* amount of their losses, incorporating a mandatory restitution provision in the TVPA to accomplish that end. 18 U.S.C. § 1593. One major impediment to achieving this goal is a defendant’s insolvency. However, Congress adopted joint and several liability principles to shift the risk of insolvency from the victim to the defendant and to provide victims with the greatest opportunity for collection. *See* 18 U.S.C. § 3664(h) (stating that where “more than one defendant has contributed to the loss of a victim, the court may make each defendant liable for payment of the full amount of restitution...”).³ Applying joint and several liability principles to the restitution order at issue best effectuates the legislative intent of the TVPA and gives victims the best chance of recovering restitution.

A. Joint and Several Liability Principles Properly Shift the Risk of Loss from the Victim to the Human Trafficker.

The adoption of the MVRA’s liability scheme in the human trafficking context is a risk-shifting measure. Restatement (Third) of Torts: Apportionment

³ When issuing and enforcing such restitution orders, the TVPA instructs courts to use the procedures laid out in the Mandatory Victims Restitution Act (MVRA), 18 U.S.C. § 3664. 18 U.S.C. § 1593(b)(2).

Liab. § 10 (2000). Instead of requiring several liability where the victim bears the risk that any defendant is insolvent, Congress permitted joint and several liability so that defendants collectively bear the risk of insolvency, as any may be held liable for the full amount of the victim's losses. *Id.*

Joint and several liability principles are particularly appropriate for mandatory restitution orders because it is the liability scheme most likely to guarantee full compensation for the victim's losses. Catharine M. Goodwin, Federal Criminal Restitution § 10:29 (Aug. 2018). Under this liability scheme, any defendant with sufficient resources may be directed to pay restitution to the victim until the restitution order is satisfied. Although this structure may result in resource-rich defendants making the most significant contributions to the victim, "the stated policy to compensate victims would seem to outweigh any such inequity and require such flexibility." *Id.* As one Circuit Court held, the victim's likelihood of recovery increases with each defendant that is held jointly and severally liable. *See United States v. Puentes*, 803 F.3d 597, 605 (11th Cir. 2015) ("By completely eliminating [defendant's] restitution obligation, the district court reduced the number of defendants who are required to pay and thereby reduced the likelihood that [defendant's] victims will be able to collect.... By absolving [defendant] of his restitution obligation, the court shifted that risk on to his victims."). Moreover, the law gives the court flexibility to order a payment

schedule that reflects “the interests of justice,” allowing victims to receive full restitution for the ongoing care they need over time without requiring defendants held jointly and severally liable to make full payment in a lump sum. 18 U.S.C. § 3664(f)(2).

The Tenth Circuit has previously applied joint and several liability principles in the context of child sexual exploitation. *See United States v. Erickson*, 83 Fed.Appx. 997, 1000 (10th Cir. 2003). When a defendant pled guilty to interstate travel with intent to engage in a sexual act with a minor, the Court held him jointly and severally liable with his co-defendants for the full cost of the victim’s past and future costs of treatment, although the defendant claimed some of the harm was attributable to other perpetrators’ offenses involving the victim. *Id.* at 999-1000. In deciding not to apportion restitution based on the defendant’s role, the Court drew upon the expert testimony of a doctor who treated the victim, emphasizing that “the severe, collaborative abuse of this child was cumulative in effect and could not be apportioned to individual perpetrators of crimes against her.” *Id.* at 1000. Likewise, the trauma of the human trafficking victims caused by the co-defendants in this case is cumulative and indivisible, so the Court should order joint and several restitution for the full amount of the victims’ losses.

B. Holding Trafficker Buyers Jointly and Severally Liable Increases the Likelihood that Human Trafficking Victims Will Collect Restitution for the Full Amount of their Losses.

In enacting the mandatory restitution provision, Congress anticipated that many defendants would not have the resources to satisfy a restitution order. S. Rep. No. 104-179, at 21 (Dec. 1995), *as reprinted in* 1996 U.S.C.C.A.N. 924, 934. This hypothesis has proven true, as restitution is virtually never collected from defendants.⁴ Gretta L. Goodwin, *Federal Criminal Restitution: Most Debt is Outstanding and Oversight of Collections Could Be Improved*, U.S. Govt. Accountability Office (February 2018) at 25–26, <https://www.gao.gov/assets/690/689830.pdf> (finding that 95 percent of offenders who were ordered to pay restitution under the MVRA were deemed unable to pay by a court). With full knowledge of this financial reality, Congress noted that a defendant’s financial situation does not “obviate the victim’s right to restitution or

⁴ According to the Attorney General’s Fiscal Year 2015 *Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons*, only seven of the 32 defendants ordered to pay restitution in FY2015 had paid even one dollar to their victims. Alexandra F. Levy, *United States Federal Courts’ Continuing Failure to Order Mandatory Criminal Restitution for Human Trafficking Victims*, The Human Trafficking Legal Center (September 2018) at p. 24, <http://www.htlegalcenter.org/wp-content/uploads/2018-Mandatory-Restitution-Report.pdf>. That means victims received only \$987 of the over \$4 million courts awarded in restitution. *Id.* The largest amount any defendant paid was \$300. *Id.* The numbers for FY2016 showed modest improvement, with 25 of the 75 defendants having made a payment. *Id.* Despite the increase in participation, the government only collected and distributed 2.8 percent of the total restitution human traffickers owed to victims. *Id.*

the need that defendants be ordered to pay restitution.” S. Rep. No. 104-179, at 2. Congress provided for joint and several liability among defendants to increase the likelihood of victims receiving the full amount of restitution they are owed. *Id.*

In terms of defendant solvency, joint and several liability principles are most significant in the context of holding trafficker buyers accountable by requiring them to pay restitution in human trafficking cases. Unlike many populations of criminal offenders, trafficker buyers “usually . . . hold a good job, and have an average to high I.Q.” Samantha Healy Vardaman and Christine Raino, *Prosecuting Demand as a Crime of Human Trafficking: The Eighth Circuit Decision in United States v. Jungers*, 43 U. Mem. L. Rev. 917, 922 (2013). Trafficker buyers “are doctors, they’re lawyers, they’re businessmen, they’re school teachers, they’re coaches, they’re even police officers.” Ernie Allen, Co-Founder of the National Center for Missing and Exploited Children, Congressional Briefing: The Demand Factor in the Global Sex Trade: Human Trafficking as a Human Rights Crisis (Mar. 1, 2016). Since a higher proportion of trafficker buyers are employed and well-educated, they are more likely to be in a financial position to satisfy a restitution award. Michael Shively et al., *A National Overview of Prostitution and Sex Trafficking Demand Reduction Efforts*, Abt Associates, Inc. (Apr. 30, 2012), <https://www.ncjrs.gov/pdffiles1/nij/grants/238796.pdf>. Accordingly, holding trafficker buyers jointly and severally liable advances Congress’s intention that

trafficking victims receive the full amount of the restitution to which they are entitled and for which traffickers are responsible by law.

CONCLUSION

This Court should affirm the district court's sentencing order.

Dated: January 17, 2019

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the type-volume limitations of Fed. R. App. P. 32(a)(7)(B) because it contains 3,072 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii). I further certify that the brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2013 in 14-point Times New Roman font.

Dated: January 17, 2019

s/ Alyssa C. Currier

Alyssa C. Currier

CERTIFICATE OF SERVICE AND DIGITAL SUBMISSION

I certify that on January 17, 2019, I electronically filed the foregoing brief with the Clerk of Court for the United States Court of Appeals for the Tenth Circuit by using the CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I further certify that: (1) all required privacy redactions have been made; (2) the electronic submission of this document is an exact copy of the corresponding paper document; and (3) the document has been scanned for viruses with the most recent version of a commercial virus scanning program and is free of viruses.

Dated: January 17, 2019

s/ Alyssa C. Currier

Alyssa C. Currier