

“Volunteer” Or Go To Solitary Confinement?

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By Guest Blogger Andy Schmidt. Andy Schmidt is a workers' rights attorney in Portland. He can be reached at andy@maineworkerjustice.com.

I represent Maine workers in my private legal practice. But I am also “of counsel” at [Towards Justice](#), an innovative nonprofit legal services provider in Colorado that I co-founded. We mostly represent immigrant workers suffering from wage theft. Some of those workers are undocumented, but we see it as our duty to help all people, both because we recognize our common humanity, and because we realize that if unscrupulous employers are permitted to steal from immigrant workers, those employers will be able to undercut employers that follow the law.

From time to time, Immigration and Customs Enforcement has detained my former clients in Colorado and housed them in a private jail run by a major for-profit company called the GEO Group. To me, detaining individuals based on their immigration status is an essential governmental function that should not be subcontracted to the lowest bidder. Unfortunately those low bidders are now [major donors to both political parties](#), and the [system of private incarceration](#) for both convicted prisoners and these [administrative detainees](#) has become entrenched.

One huge problem is that these immigration detention centers are run by people from the corrections industry, which is designed to punish and rehabilitate wrongdoers who have significantly fewer rights than immigrant detainees. For example, convicted prisoners can be forced to work without violating the ban on slavery in the 13th Amendment to the U.S. Constitution. But immigration detainees, unlike convicted prisoners, by definition are held for administrative purposes while they either claim a right to stay in the United States or await removal.

Immigration detention is not punishment for a crime – in fact, many times, [U.S. citizens are detained in other countries](#) because of mistaken identity. I can imagine going to visit Canada and losing my passport. I might be sent to a detention center before I was sent on a bus across the border. I would expect to be treated with dignity and respect and with the assumption that I am not an intentional law-breaker. I would not expect to be forced to labor for a private company.

But that's what our clients in Colorado say happened to them. The GEO Group, in order to save on the costs of hiring local workers, allegedly gave the detainees a false choice between “voluntary work” for \$1 per day, cleaning up the common areas of the detention center for free, or going to solitary confinement. Unfortunately, we have become almost immune to the horrors of solitary confinement. But as any reader of Alexandre Dumas's *Count of Monte Cristo* knows, [solitary confinement can cause serious psychological damage very quickly](#).

Our clients allege that GEO not only avoided adequately compensating the detainees, but unjustly padded their profit margin on the back of a captive workforce while denying those jobs to workers in the local community.

A Federal Judge in Colorado recently refused to dismiss our clients' claims that they were forced to work and that this constituted forced labor in violation of the Trafficking Victims Protection Act. We have a ways to go before our clients can tell their version of the facts to a jury, but the Court's ruling is a big victory.

Even I, as a staunch immigrant rights advocate, recognize the need for a border and the need to remove some people who cross without permission. But we should respect the dignity of all people. Empathy or at least self-interest should make us recognize that if we were ever vacationing outside the U.S., we would decry being forced to labor for a private company while they sort out our status.

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