

## Inhumanity exposed, remedy enhanced in ‘shocking’ involuntary servitude case

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*It’s one of the most horrific cases with employment implications to be decided in recent years. The U.S. 4th Circuit Court of Appeals (which covers South Carolina employers) recently held the Trafficking Victims Protection Act (TVPA) (a statute passed to implement the Thirteenth Amendment against slavery or involuntary servitude) requires a person found guilty of obtaining forced labor to compensate the victim for the “full amount” of his losses, including the value of his labor as provided by the “minimum wage and overtime guarantees of the Fair Labor Standards Act (FLSA).” In short, the TVPA’s guarantee extends to the FLSA’s liquidated damages provision. The appellate court sent the matter back to the district judge in South Carolina to recalculate the victim’s compensation to include the liquidated damages.*

### **Facts**

The facts in the following case are both sad and shocking. For more than five years (from 2009 to 2014), Bobby Edwards, the white manager of J&J Cafeteria in Conway, South Carolina, effectively enslaved a black worker (referred to with the fictitious name “Jack”), forcing him to work more than 100 hours per week without pay.

Jack began to work part-time at J&J as a dishwasher when he was 12 years old. He has an intellectual disability and an IQ of 70. He eventually dropped out of high school and worked full-time at the restaurant.

For the first 19 years of his employment, when the restaurant was owned and operated by other Edwards family members, Jack was always paid for

his labor. That all changed in 2009 when Bobby Edwards began managing the establishment.

From that point forward, as set forth in Edwards’ plea and admissions in his TVPA criminal charges, for which he is serving 10 years in prison, he committed the following acts:

- Compelled Jack to work more than 100 hours a week for no pay;
- Subjected him to physical and emotional abuse whenever he made a mistake or failed to work fast enough;
- Isolated him from his family;
- Threatened to have him arrested;
- Beat him with a belt, fists, pots, and pans; and
- Dipped metal tongs into hot grease and pressed them to Jack’s neck.

The reign of terror ended in October 2014, when a restaurant employee’s relative alerted authorities to Edwards’ abuse. The South Carolina Department of Social Services removed Jack from J&J.

### **Court rulings**

In awarding restitution of roughly \$273,000 to Jack, the district court held the FLSA’s liquidated damages remedy was statutory punitive damages and applied only in civil cases and not to a criminal case like the one Edwards was facing under the TVPA.

As noted above, the 4th Circuit disagreed and read the language of both statutes to allow for the FLSA liquidated damages to apply in a criminal case when the criminal statute contains broad language like the TVPA. The appellate court sent the case back to the

district court to recalculate the compensation to include liquidated damages.

***Bottom line***

The decision is an excellent example of a court examining the actual words used in not one, but two statutes, then using the words in their ordinary, common-sense, understood, everyday meaning to reach its findings.

From an employer's perspective, you should be aware the FLSA's reach may now extend beyond its civil law underpinnings. While calculating the damages to include the liquidated portion may help Jack in the future and provide some consolation, it can't undo the inhumane treatment he suffered for those five horrible years.

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