

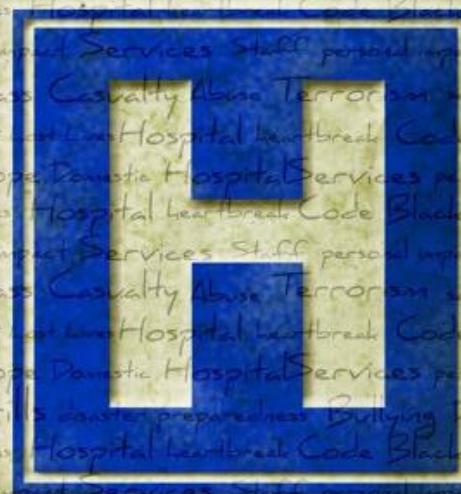


American Hospital
Association™

Advancing Health in America

Legal Aspects of Human Trafficking for Health Care Professionals

November 12, 2018



American Hospital
Association®

The American Hospital Association, Jones Day, and HEAL Trafficking come together to support the health care field to combat human trafficking.



Advancing Health in America

ICD-10 HUMAN TRAFFICKING ABUSE CODES

www.aha.org/combating-human-trafficking

Resources

- ICD-10-CM Coding for Human Trafficking Fact Sheet
- Downloadable Human Trafficking signage
- Webinar Series
 - The Legal Aspects of Human Trafficking
 - The Reality of Labor Trafficking
 - The Intersection of Human Trafficking and the Opioid Crisis
 - Trafficking of Children for Labor and Sex



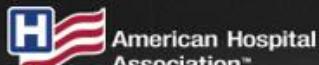
Advancing Health in America

HUMAN TRAFFICKING HAPPENS
IN EVERY COMMUNITY.

HOSPITALS IDENTIFY AND
HELP VICTIMS EVERY DAY.

HOSPITALS CAN HELP.

LEARN MORE.



Advancing Health in America





Martina Vandenberg

Founder and President
The Human Trafficking Legal Center



Jessica Emerson

Director & Supervising Attorney
Human Trafficking Prevention Project
The University of Baltimore School of Law

Legal Aspects of Human Trafficking for Health Care Professionals

Martina E. Vandenberg, Esq.

Founder and President

The Human Trafficking Legal Center

Jessica Emerson, LMSW, Esq.

Director & Supervising Attorney

Human Trafficking Prevention Project

The University of Baltimore School of Law

Presentation Agenda

- Human Trafficking Case Studies
- Legal Benefits Available to Trafficking Survivors
- Legal Remedies for Criminalized Survivors of Trafficking

Criminal Case Studies: U.S. Citizen Trafficking Victims

U.S. v. Shelby Lewis

1:09-cr-00213-EGS

District Court for the District of Columbia



S.H.	11 years old
T.S.	13 years old
M.S.	16 years old
A.L.	14 years old

U.S. v. Lewis

1:09-cr-00213-EGS

District Court for the District of Columbia

- Defendant pled guilty to 4 counts of sex trafficking of minors and sentenced to 240 months;
- Judge appointed a pro bono lawyer to represent the children;
- Psychiatric expert calculated restitution for future expenses;
- Prosecution calculated gross earnings to the traffickers;
- Restitution: **\$3,892,055** for four victims.

Department of Justice

SHARE 

U.S. Attorney's Office

District of South Carolina

FOR IMMEDIATE RELEASE

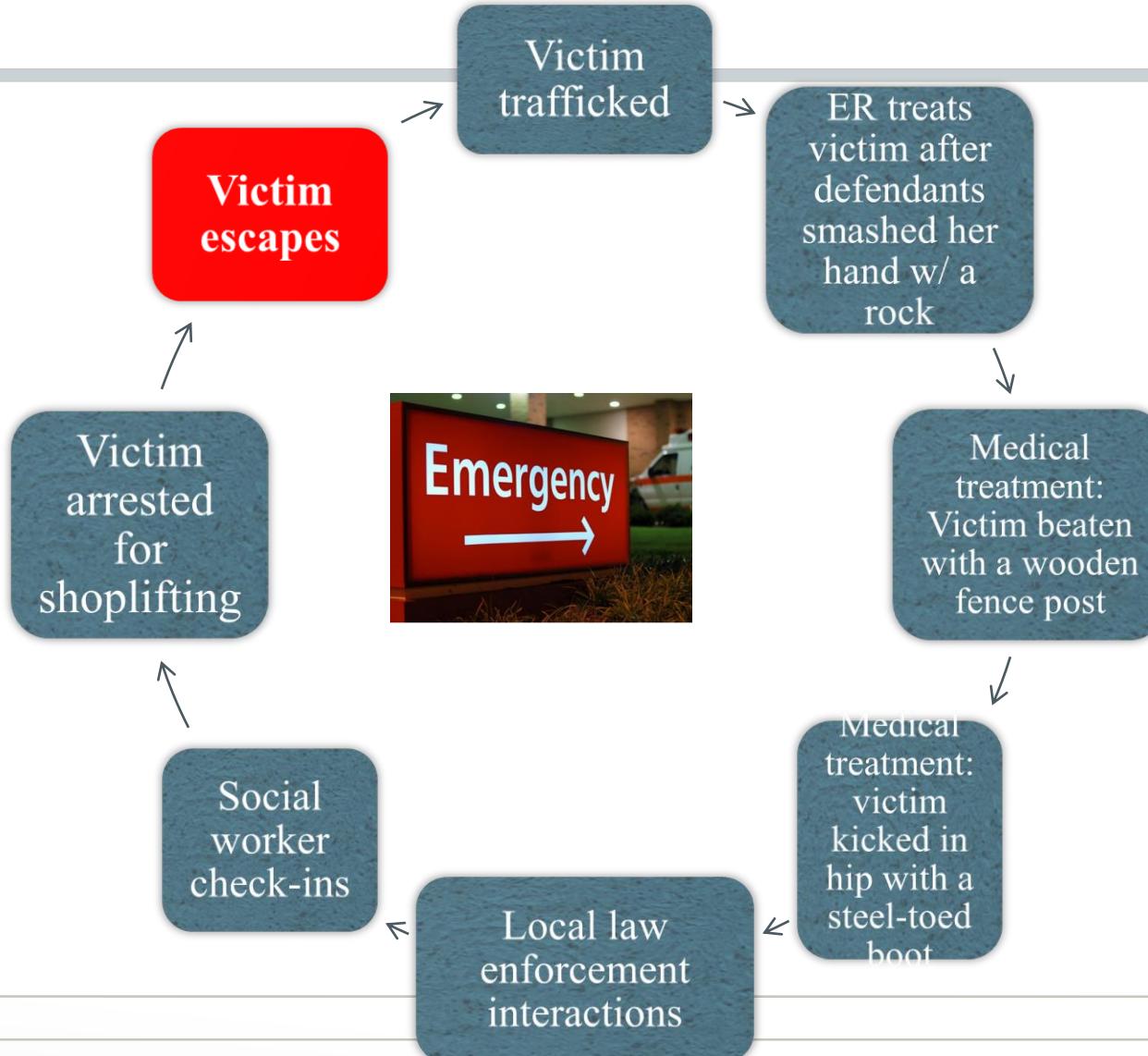
Wednesday, June 6, 2018

South Carolina Man Pleads Guilty to Forced Labor for Compelling Man with Intellectual Disability to Work at Restaurant

The defendant used violence, threats, isolation, and intimidation to compel victim to work seven days a week without pay at restaurant

U.S. v. Callahan

No. 1:13-cr-00339 (N.D. Ohio)





Case Studies:

Foreign-Born Trafficking Victims

AUCTION



LOLA WAS 18 WHEN MY GRANDFATHER GAVE HER TO
MY MOTHER AS A GIFT. WE BROUGHT HER TO AMERICA.
FOR 56 YEARS, SHE TOILED IN OUR HOME.

The Columbus Dispatch

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Four accused of aiding slave-labor ring on Ohio egg farms

Trillium Farms



By [Holly Zachariah](#)

The Columbus Dispatch • Thursday July 2, 2015 8:06 PM

 Share 601  Tweet 67  sharethis 6590

A federal indictment unsealed today accuses four people of running or aiding a slave-labor ring that smuggled Guatemalan teenagers as



U.S. v. Kizzy Kalu

Case No. 1:12-cr-00106 (Colorado)

Trafficked nurses into the United States using a fake “university” to obtain H-1B visas;

Demanded that nurses pay \$800 - \$1200 per month or face deportation;
Threatened nurses with a \$25,000 fine for absconding;
Sentenced to 10 years and 8 months in prison;
Ordered to pay \$3.7 million in restitution.



FACT SHEET



HUMAN TRAFFICKING & HEALTH CARE PROVIDERS

Immigration Relief



Continued Presence

Temporary Immigration Status for Victims of Human Trafficking

The Human Trafficking Legal Center



VISA



Application for T Nonimmigrant Status

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-914
OMB No. 1615-0099
Expires 01/31/2019

START HERE - Type or print. Use black ink. See Instructions for information about eligibility and how to complete and file this application.

PART A. Purpose for Filing the Application

Check all that apply:

I am filing an application for T-1 nonimmigrant status, and have not previously filed for such status.

I have a T-1 application pending. EAC #: _____

I have received T-1 status.

I am applying to bring family member(s) to the United States.

For USCIS Use Only	
Returned	Receipt
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	

1. I am or have been a victim of a severe form of trafficking in persons. *(Attach evidence to support your claim.)* Yes No
2. I am submitting a law enforcement agency (LEA) declaration on Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons. *(If "No," explain why you are not submitting the LEA Certification.)* Yes No
3. I am physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry, on account of trafficking. *(If "Yes," explain in detail and attach evidence and documents supporting this claim.)* Yes No
4. I fear that I will suffer extreme hardship involving unusual and severe harm upon removal. *(If "Yes," explain in detail and attach evidence and documents supporting this claim.)* Yes No
5. I have reported the crime of which I am claiming to be a victim. *(If "Yes," indicate to which law enforcement agency and office you have made the report, the address and phone number of that office, and the case number assigned, if any. If "No," explain the circumstances.)* Yes No



T-Visas Approved:

FY 2009: 313 T-visas

FY 2010: 447 T-visas

FY 2011: 557 T-visas

FY 2012: 674 T-visas

FY 2013: 848 T-visas

FY 2014: 613 T-visas

FY 2015: 610 T-visas

FY 2016: 750 T-visas

FY 2017: 672 T-visas

Criminal Restitution and Civil Remedies for Trafficking Survivors

United States Federal Courts' Continuing Failure to Order Mandatory Criminal Restitution for Human Trafficking Victims



WILMERHALE 

WILMER CUTLER PICKERING HALE AND DORR LLP

U.S. Attorneys » Eastern District of Tennessee » News

Department of Justice

SHARE 

U.S. Attorney's Office

Eastern District of Tennessee

FOR IMMEDIATE RELEASE

Monday, September 10, 2018

Corrie Gillispie, a/k/a "Bigg Tyme", Sentenced To Serve Thirty-Two Years in Prison For Kidnaping and Commercial Sex Trafficking

Judge ordered additional twelve months for contempt

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

UNITED STATES OF AMERICA)
) Case No. 1:16-cr-77
v.)
) Judge Travis R. McDonough
CORRIE GILLISPIE)
) Magistrate Judge Christopher H. Steger
)

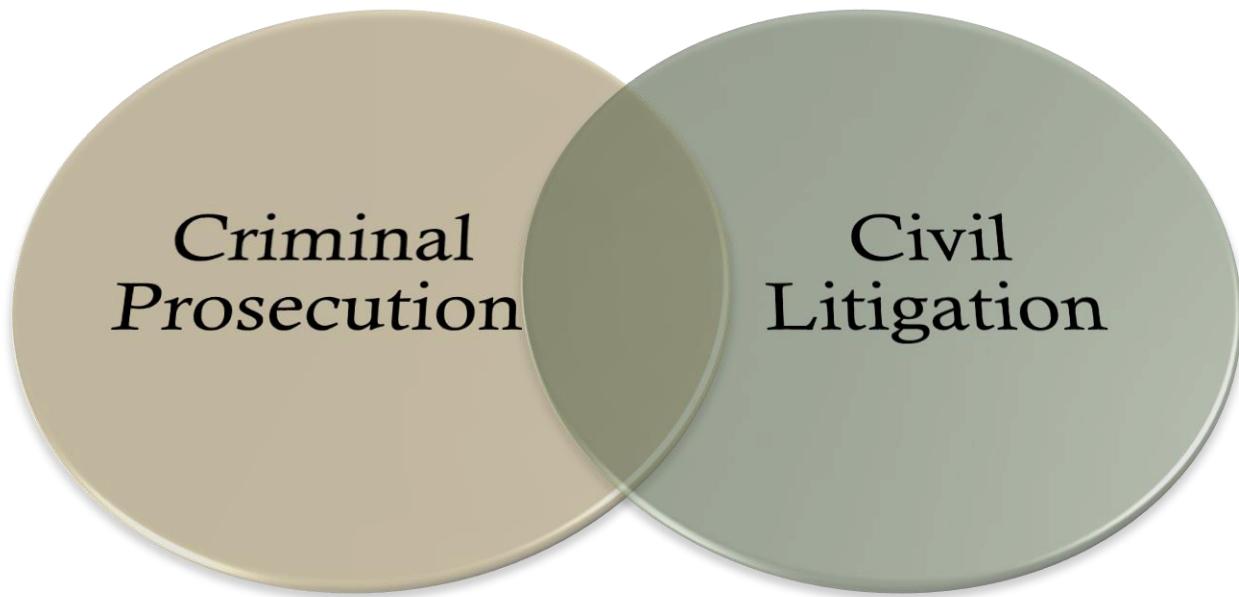
ORDER

- e. 2009 Maserati Quattroporte sedan, VIN ZAMFK39A190044339, registered to CORRIE DEANTRE GILLISPIE;
- f. 2010 Chevrolet Equinox; VIN 2CNFLCEW6A6225835, registered to CORRIE GILLISPIE; and
- g. 2013 Ford Fusion, VIN 3FA6POHR7DR244748.

U.S. CURRENCY

\$34,466.00 U.S. Currency seized from a residence located at 13300 Morris Road, Apt. 76, Alpharetta, Georgia on May 26, 2016.

Criminal Prosecution or Civil Litigation?



Woman Trafficked by Cult Is Awarded \$8 Million: 'They Took My Childhood'



The Value Creators publishes teachings on its website and Facebook page. Kendra Ross, a woman who described her forced labor in the group, which was formerly named the United Nation of Islam, has been awarded \$8 million.

The Value Creators website and profile image on social media.

By **Christine Hauser**

May 25, 2018



FURTHER ORDERED and ADJUDGED that judgment is entered against Alan

and Stella Mzengi, jointly and severally, in the amount of \$1,059,348.79, which is allocated in the

following manner:

\$510,249.21 in treble damages under the Maryland Wage and Hour Law;
\$45,101.69 in compensatory damages for unjust enrichment;
\$19,961.64 in compensatory damages for fraudulent inducement;
\$250,000.00 in compensatory damages for emotional distress;
\$150,000.00 in punitive damages; and
\$84,036.25 in attorney's fees.

SO ORDERED.

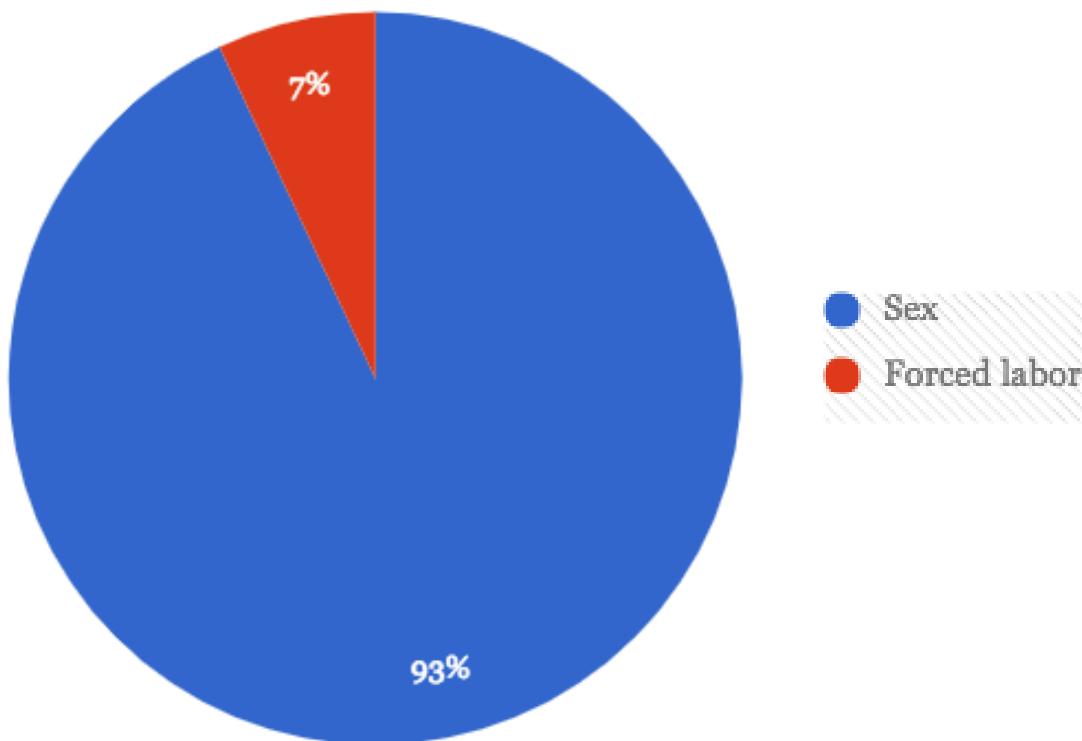
Why Civil Litigation?

Federal Criminal Trafficking Cases

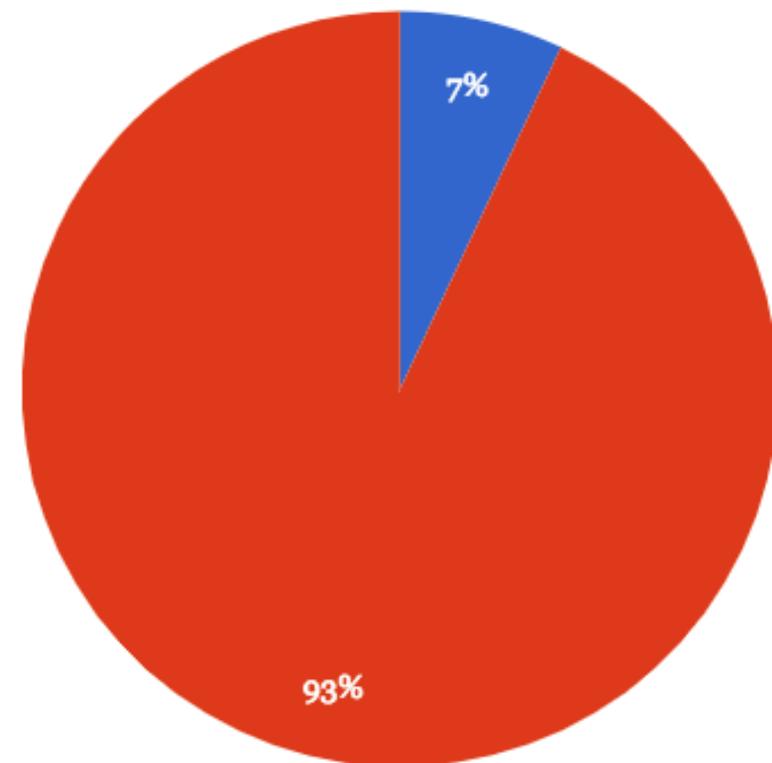
FY	2014	2015	2016	2017
Sex	190	248	228	266
Labor	18	9	13	16
Total	208	257	241	282

Why Civil Litigation?

Trafficking Criminal Cases



Trafficking Civil Cases

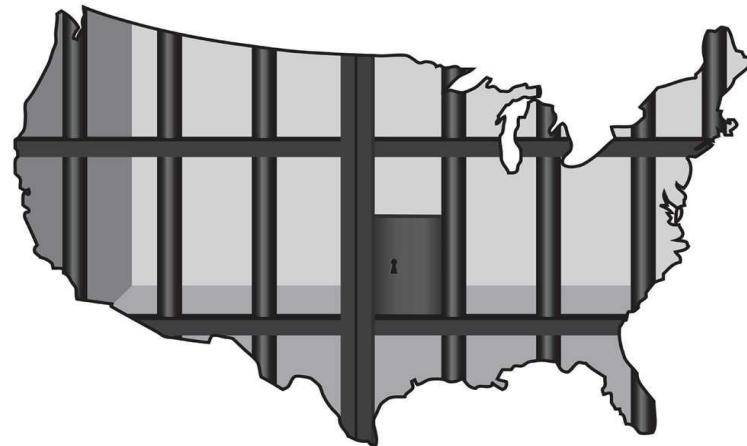


Why so few sex trafficking civil cases?



When survivors have lawyers, survivors have rights





Criminalization of Human Trafficking Victims

Survivors in the Criminal Legal System

- Victim/Witness
 - Cooperating
 - Involuntary
- Criminally Charged Defendant

National Survivor Network

Survey (2016)

- 91% of respondents reported having been arrested
 - Over 50% reported that every arrest on their record was trafficking-related
 - 42% arrested as minors
 - Over 40% reported being arrested over 9 times or more
 - 60% reported being arrested for crimes *other than* prostitution

Why is Post-Conviction Relief So Important for Survivors?

- Conviction/Arrest Histories Can Prevent Survivors From:
 - Obtaining employment
 - Pursuing education
 - Obtaining public benefits
 - Receiving housing assistance
 - Applying for a loan
 - Family stability
 - Accessing immigration relief or adjusting status
 - Healing from trauma

Why Is Post-Conviction Relief So Important for Survivors?

“I always felt like a criminal. I never felt like a victim at all. Victims don’t do time in jail, they work on the healing process. I was a criminal because I spent time in jail.”

BOTTOM LINE: A criminal record often keeps survivors trapped in the very industries they seek to escape, prevent healing, and make them vulnerable to re-victimization!

Enter Vacatur of Convictions!

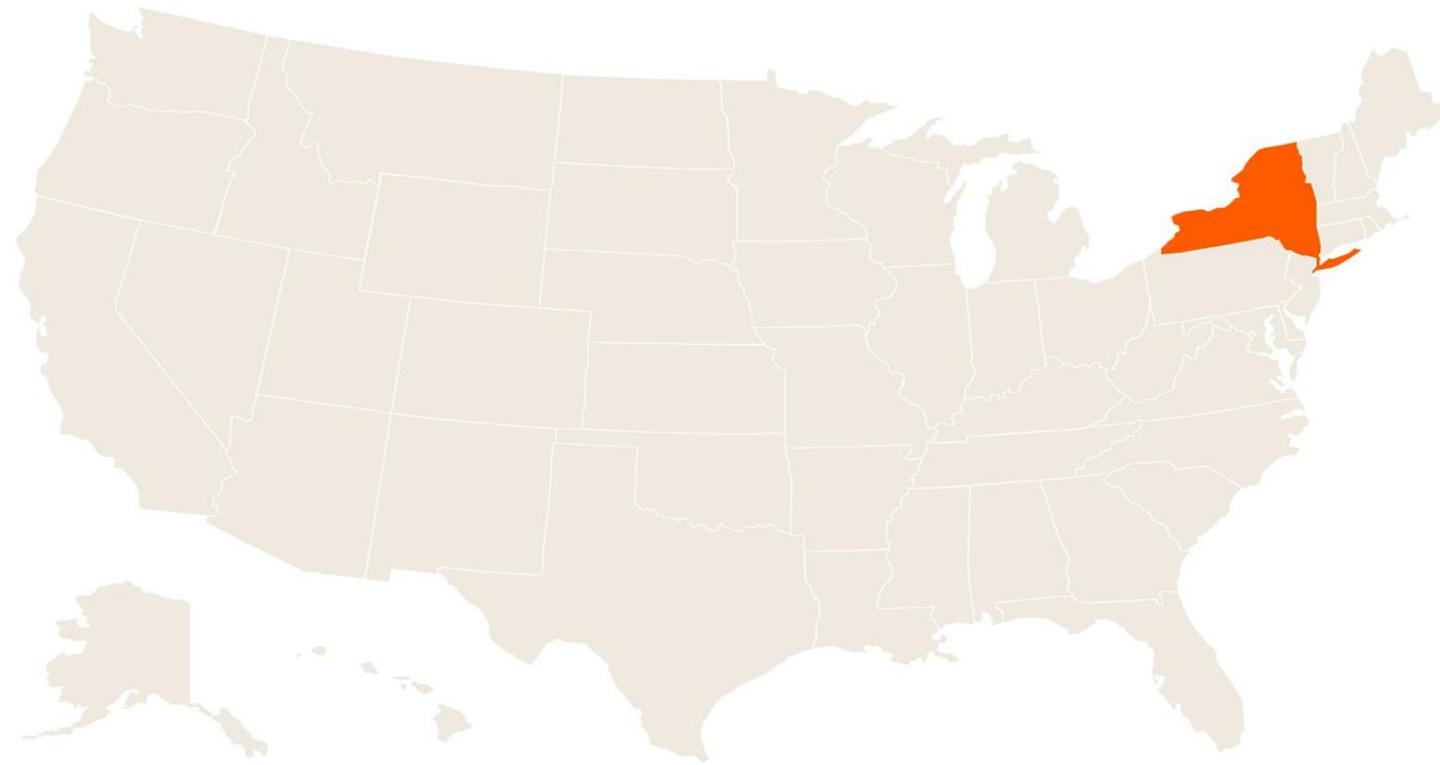
Definition: To *undo* or set aside a court's judgment

How this different from other forms of post-conviction relief?

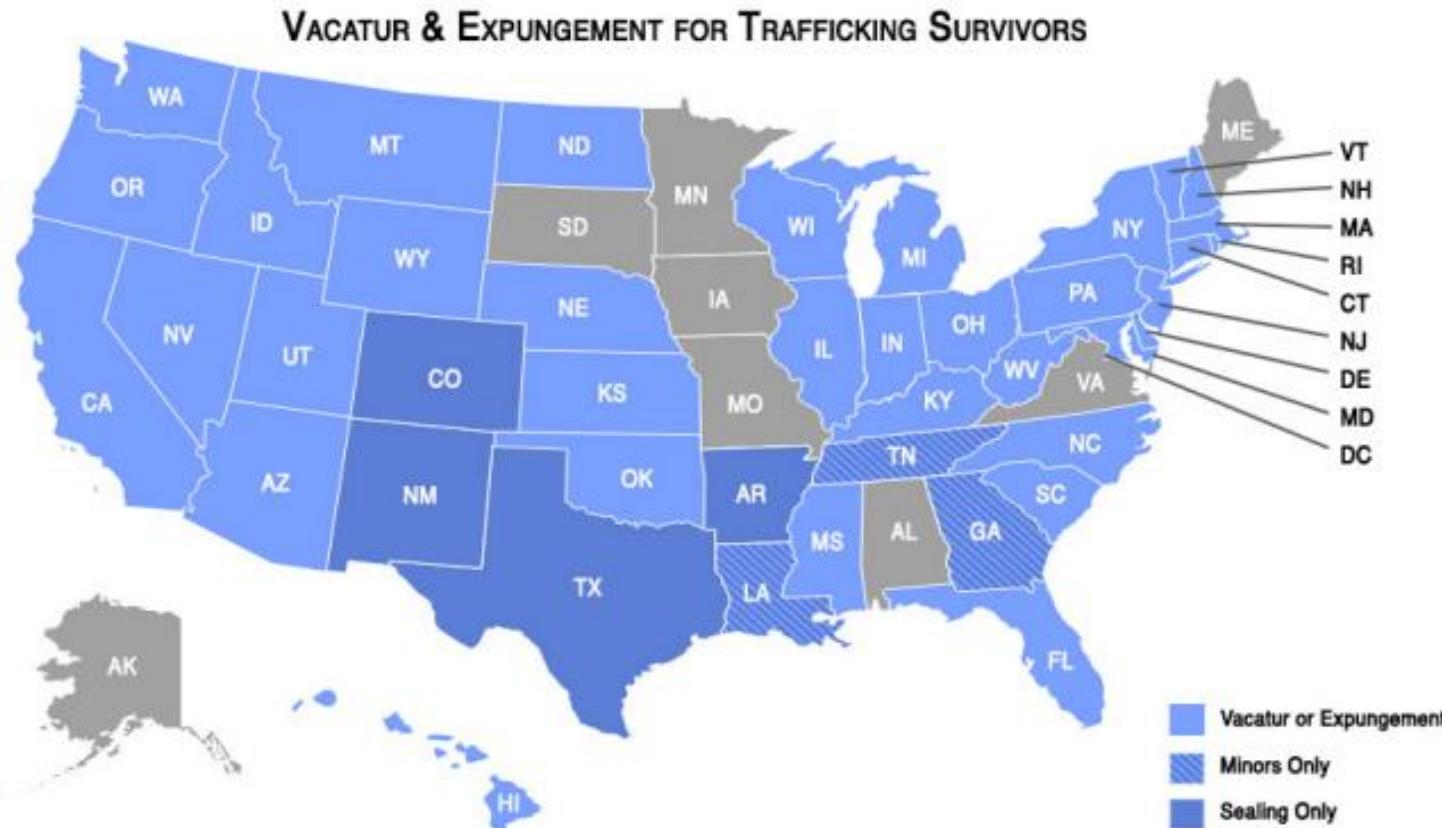
- Vacating a conviction means there was an error in the original judgment/conviction
- While all forms of post-conviction relief help people have an easier time getting housing and jobs, vacatur contains the added emotional benefit of acknowledging that the law made a mistake!

“Vacatur Laws” and Human Trafficking

Vacatur Laws for Trafficking Survivors



“Vacatur Laws” and Human Trafficking



Why are Post-Conviction Laws Important?

- Remedy past injustice
- Empowerment
- Survivor-controlled
- Opportunity to reclaim space/story
- Impact on criminal justice stakeholders
(Judges, prosecutors, court personnel)

Best Practices: Vacatur of Convictions

- Expansive list of eligible crimes
- No requirement that survivors provide official documentation of trafficking or cooperation with law enforcement
 - However, there should be a presumption of eligibility if official documentation is provided!
- No requirement that survivors prove they have left the sex industry or have been “rehabilitated”
- Retroactive (inclusive of those with older convictions)

Best Practices: Vacatur of Convictions

- Requires vacatur of conviction(s) if motion is granted by the court
- Does not require consent by the prosecutor's office prior to the filing of the motion
- Procedures put in place to address the subsequent non-conviction
- Provides for confidentiality of survivor's identity, moving papers, and courtroom appearances
- Provides a way for survivors to recoup court costs/fees

Best Practices

When Working with a Survivor:

- ALWAYS ask about arrest history
- Identify ways survivor has interacted with criminal legal system
- Explore extent to which criminal history has impacted survivor's independence & stability
- Share information about post-conviction relief
- Make referrals as needed

Suggested Assessment Questions

Were you ever arrested during the time you were trafficked?

What states were you arrested in?

Do you know what you were arrested for?

Do you have any current criminal court cases or open warrants?

Have you gotten a fingerprint record?

Resources

- Human Trafficking and HIPAA: What the Health Care Professional Needs to Know
- Factsheet: Domestic Violence and Human Trafficking
- Factsheet: Human Trafficking and Health Care Providers – lessons learned from federal criminal indictments and civil trafficking cases
- Factsheet: Trafficking of Persons with Disabilities in the US
- Article – University of Baltimore law students help trafficking victims escape their past, Baltimore Sun
- Clearing the Slate: Seeking Effective Remedies for Criminalized Trafficking Victims
- U.S. v. Lewis_D.D.C._2009_Memorandum Opinion

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