



**“No Way Out,” by Charlie Gray,
Plaintiff in *Stanley v. Ivey*, Case No. 03-CV-2024-900649.00 (Al. Cir. Ct. 2024)**

**Written Statement by
the Center for Constitutional Rights
*before the Subcommittee on Criminal Justice and Counterterrorism of
the Senate Judiciary Committee*
Regarding “An Examination of Prison Labor in America”
May 21, 2024, 2pm EST**

The Center for Constitutional Rights thanks Chairperson Booker and the Senate Judiciary Subcommittee on Criminal Justice and Counterterrorism for holding this hearing on the urgent need to abolish involuntary servitude, slavery, and other forms of forced labor within this country’s state and federal prisons (hereinafter “forced prison labor”), as permitted under the Exception Clause of the Thirteenth Amendment of the U.S. Constitution and various state constitutions and laws. We are grateful for the opportunity to submit this written statement on behalf of incarcerated workers in Alabama and across the South and nation.

Introduction

In coercing individuals—the majority of whom are Black, of color, or from vulnerable communities—to labor against their will for little to no compensation, the system of forced prison labor in the United States has directly descended from, and is an outgrowth of the ongoing legacy

of, slavery, the Black Codes, convict leasing, and the Jim Crow era of this country. It is the present-day foundation for the overcriminalization, dehumanization, subjugation, and warehousing of Black people in carceral institutions.

Forced prison labor exploits incarcerated workers for their labor, violently violating their bodily autonomy while promoting degrading and dangerous work conditions. Incarcerated workers are forced to work under threats of punishment, including, but certainly not limited to, solitary confinement, transfers to more dangerous prisons, loss of contact with loved ones, and loss of good time credit that would reduce their time in prison. These practices are particularly acute in the State of Alabama's prison system—the most overcrowded in the country, operating at over 168% capacity and with less than 40% of the total correctional staff required to operate its prisons.

Due to this overcrowding and severe understaffing, prison staff in Alabama Department of Corrections (“ADOC”) prisons are increasingly reliant on incarcerated persons to perform the most essential tasks necessary to maintain the functionality of prisons, in exchange for very little to no pay. Such tasks include preparing and serving food, laundry, barbering, cleaning, painting, plumbing, HVAC repair, clerical work, and courier-like work throughout the prisons, as well as many core job functions of correctional officers.

Despite a 2022 amendment to the Alabama Constitution that expanded the state's constitutional ban on slavery and involuntary servitude to prison, these practices have persisted and were even enacted into state law the year after the constitutional amendment via Governor Ivey's Executive Order No. 725, ADOC Revised Administrative Regulation 403, and revisions to Section 14-9-41 of the Alabama Code (amended July 1, 2022). Under these laws, people incarcerated by ADOC are routinely punished, or threatened with punishment, for not working or declining to work, just as they were before the 2022 amendment.

On May 1, 2024, International Workers' Day, six incarcerated people—Trayveka Stanley, Reginald Burrell (whose written testimony before this Subcommittee is forthcoming), Dexter Avery, Charlie Gray, Melvin Pringle, and Ranquel Smith—filed a state court lawsuit against Alabama Governor Kay Ivey and ADOC Commissioner John Hamm, Stanley v. Ivey, Case No. 03-CV-2024-900649.00 (Al. Cir. Ct. 2024), to enjoin these practices, and the state laws authorizing them, and to declare them unconstitutional under Article I, Section 32 of the Constitution of Alabama of 2022 (“Section 32”). Through this novel lawsuit, they ultimately seek to enforce Section 32's ban against forced labor in the state's prison system.

As a national, not-for-profit organization that works with communities under threat to fight for justice and liberation through litigation, advocacy, and strategic communications, the Center for Constitutional Rights, as counsel for the plaintiffs in *Stanley*, stands in solidarity with Ms. Stanley, Mr. Burrell, Mr. Avery, Mr. Gray, Mr. Pringle, and Mr. Smith, and the thousands of other incarcerated workers in Alabama and across the country who are demanding the abolishment of forced prison labor in all its forms.

To urgently stop these systemic abuses, now is the time for Congress and President Biden to enact laws that protect incarcerated workers' safety, health, well-being, and dignity, in state as

well as federal prisons. Forced prison labor has no place in the United States, and Congress and the President must end this abusive system now.

Forced Prison Labor in Alabama

Alabama's prison system incarcerates Black people at disproportionate rates while subjecting them to inhumane conditions within the prison system. Black individuals disproportionately make up 53 percent of Alabama's state prison population while only making up 26 percent of the state's general population. Thus, a high percentage of incarcerated workers, who are subjected to the inherently abusive nature of forced prison labor, are Black.

The labor of incarcerated persons is essential to the maintenance of ADOC prisons. Workers are forced to perform many jobs within the prison for little to no pay. Indeed, the only incarcerated workers housed in major institutions who are paid by ADOC for their labor are workers for Alabama Correctional Industries ("ACI") and workers in prison commissaries, who are paid as little as \$2 per day. Incarcerated persons are also forced to labor for other state entities—also for little pay and often under unsafe working conditions. For example, people incarcerated in community work centers perform labor for governmental entities such as street maintenance for the City of Montgomery. These workers are paid as little as \$2 per day, as well.

This system of forced prison labor is not restricted to work "on the inside": people incarcerated in work release centers also perform labor for private companies in the "free world." These companies pay the workers' earned wages directly to ADOC, which then deducts a 40% fee and deposits the remainder into their prison trust accounts. ADOC also charges work release workers, and deducts from their pay, additional fees for laundry (\$15 per month) and transportation to and from their jobs (\$5 round trip), among other costs.

Given these deductions, ADOC's contractual relationship with the private companies, and the absence of a requirement to pay incarcerated workers any minimum wage or extend any safety protections to the workers, incarcerated workers are extremely profitable for the State of Alabama. Incarcerated workers working for ACI generated over \$3 million in profit for the State of Alabama between October 2022 to September 2023. And according to ADOC's own reporting, work release workers generated \$12,942,048.13 for the State of Alabama between October 2022 and September 2023.

Yet in return, incarcerated workers are not entitled to a guaranteed livable wage, training, or safety. And if they cannot work or they refuse to work, they have no protection against retaliation under federal or Alabama law, as Senator Booker himself has acknowledged. In fact, ADOC routinely requires incarcerated workers at work release prisons, who are issued behavior citations or disciplinary reports—including for not working or refusing to work—to perform "extra duty" (i.e., unpaid labor that typically consists of cleaning or picking up trash), in addition to the work they perform at institutional or free-world jobs.

After a 2022 prison labor strike where thousands of incarcerated people in Alabama prisons raised demands to address grave human rights violations that they were experiencing, Alabama

voters approved a new state constitution that prohibits the above-mentioned system of slavery as well as involuntary servitude in all circumstances, including in prisons. This prohibition, along with several other changes, were proposed by a state joint legislative committee, with the express purpose of “remov[ing] racist language” from the overtly white supremacist 1901 constitution.

Shortly after the strike and the changes to the Alabama Constitution banning prison slavery, the state government responded with three legal measures to punish incarcerated people who resist forced labor: Alabama Executive Order No. 725, ADOC Administrative Regulation 403, and revisions to Section 14-9-41(c)(4) of the Alabama Code. Each measure allows prison officials to punish incarcerated workers by revoking earned good time, placing them in solitary confinement, and eliminating opportunities to communicate with loved ones, among other sanctions.

Stanley v. Ivey and the National Movement to End Forced Prison Labor

Against this backdrop, six incarcerated workers—Trayveka Stanley, Reginald Burrell, Dexter Avery, Charlie Gray, Melvin Pringle, and Ranquel Smith—are challenging these state executive and legislative actions by seeking to abolish the practice of forced labor and involuntary servitude in all ADOC prisons in their state court lawsuit, *Stanley v. Ivey*, a copy of which can be found here. This lawsuit, as well as their accompanying narratives, shares each of the plaintiffs’ experiences as incarcerated workers subject to ADOC’s systemic policy and practice of forced prison labor, in an effort to enforce Section 32’s ban on prison labor.

In so doing, the case builds upon the growing national movement to remove the prison slavery exception in all state constitutions and in the Thirteenth Amendment of the U.S. Constitution and to ultimately abolish prison slavery and involuntary servitude at the state and federal level. In amending its state constitution in 2022, Alabama joined this ongoing movement. And voters in Colorado, Nebraska, Tennessee, Utah, Oregon, and Vermont have likewise approved changes to their states’ respective constitutions to remove the loophole permitting slavery as a form of punishment for incarcerated people.

Congress and the President must, too, join or at minimum, support this robust movement by enacting federal legislation that bans forced labor in all its forms in state and federal prisons, as well as immigration detention prisons, by abolishing the Exception Clause in the Thirteenth Amendment and any analogues in state constitutions and state laws. They also must require the fair, dignified treatment of incarcerated workers by meeting their demands for provisions of a guaranteed fair wage, educational development, and proper training on skills, safety, and equipment, among others, as detailed below.

While we recognize that incarceration will never provide truly safe conditions because prisons are inherent sites of violence and are not designed with the well-being of incarcerated people in mind, incarcerated workers in Alabama prisons deserve workers’ protections and the ability not to be forced into labor.

Recommendations & Summary of Key Provisions:
Congress and the President Must Enact Legislation that
Guarantees a Federal Minimum Wage and Prohibits Wage Deductions;
Ensures Safe Workplaces for Incarcerated Workers;
Advances Job and Educational Opportunities; Prohibits Requiring People to Work; and
Entitles Incarcerated Workers to Civil Rights, Including Protections Against Retaliation
for Their Refusal to Work, in State and Federal Prisons

Congress and the President must urgently act to end forced prison labor to stop state and federal prisons from abusing incarcerated workers. By enacting into law Senator Booker's proposed package of bills—the Fair Wages for Incarcerated Workers Act, the Correctional Facilities Occupational Safety and Health Act, the Ensuring Work Opportunities in Correctional Facilities Act, and Combating Workplace Discrimination in Correctional Facilities Act—the House and Senate and the President are taking steps in a positive, affirming direction to abolish forced prison labor and to protect the safety and dignity of incarcerated workers in state and federal prisons.

In the interim, and at the very minimum, the President can, and *must*, immediately take executive action to adopt and implement the following provisions of Senator Booker's bill package, as well as additional protections, in support of incarcerated workers across the country—all of which we unequivocally support:

- the guarantee of a federal minimum wage for incarcerated workers;
- the elimination of wage deductions while ensuring incarcerated people can fulfill legal and financial obligations;
- the inclusion of incarcerated workers in state occupational safety and health plans;
- amendment of Occupational Safety and Health Act to include state and local facilities as employers and incarcerated workers as employees;
- the creation of a grant program for state and local governments to amend their occupational health and safety plans to cover incarcerated workers and to support enforcement;
- prohibition against requiring people incarcerated in state and federal facilities to work;
- prohibition of retaliation against an incarcerated person by any officer of a correctional facility for refusal to work;
- the removal of “refusing to work” from the list of BOP inmate behaviors justifying sanctions, including disciplinary segregation, monetary fines, loss of earned time, and delayed parole;
- an amendment of the Prison Litigation Reform Act of 1995 to end the requirement that incarcerated individuals exhaust all available administrative remedies before being able to sue a correctional facility or officer under federal law to assert their civil rights; and
- an extension of the protections of the Americans with Disabilities Act and/or the Rehabilitation Act and Title VII of the Civil Rights Act of 1964 to incarcerated workers to prohibit employment-related discrimination against workers based on disability, race, color, religion, sex, or national origin.

Conclusion

Ranquel Smith, one of our clients in *Stanley v. Ivey*, said it best: being forced to work in prison under the threat of punishment “[i]s not being treated fairly *at all*.” Mr. Smith and our other clients, along with other incarcerated individuals throughout ADOC, other state, and federal prisons, are forced to carry out countless jobs within prisons and for other state entities and private employers, for little to no pay, often under unsafe working conditions. This system is undeniably tied to the ongoing legacy of chattel slavery that has exploited Black people for their labor for centuries.

We stand alongside Mr. Smith, our other *Stanley* clients, and incarcerated workers across the South and the country in their fight to end the practice of punishing incarcerated persons for not working or refusing to work and to abolish the system of forced labor in all its forms at the state and federal levels. As Chairperson Booker stated in 2023 upon introducing federal legislation to end unfair, abusive labor practices in prisons, “the current state of prison labor in America is inhumane and unacceptable.” The President and Congress must address this reality and act now.