Lackawanna County sued over use of prisoners at recycling center

BY TERRIE MORGAN-BESECKER, STAFF WRITER / PUBLISHED: DECEMBER 3, 2019

For more than a decade, Lackawanna County has coerced people jailed for failing to pay child support to work for just $5 a day at its recycling facility in violation of anti-slavery, human trafficking and labor laws, attorneys for three former inmates claim in a federal lawsuit.

The proposed class action suit accuses county officials of exploiting the men as part of an illegal racketeering scheme designed to benefit the county and enrich Louis and Dominick DeNaples, owners of a private company the Lackawanna County Solid Waste Management Authority contracts with to operate the center.

“We are alleging these folks were made to work and if they refused to work, they were imprisoned longer,” said attorney Juno Turner of Towards Justice, a Colorado based nonprofit worker’s rights group that led the suit.

The lawsuit details “abominable” conditions detainees are forced to work in as they sort recyclables from a mass of trash that often includes dead animals, dirty diapers, toxic materials and hypodermic needles. They have little choice but to accept the assignment, however, because the county mandates they work at the facility to qualify for work release to an outside job, the suit says.

That ensures the county has “access to a steady supply of low cost labor,” but it hurts the debtors’ families because it delays them taking a minimum wage job that would help reduce the amount of support they owe, Turner said.

“They deserve to be working to earn money to satisfy their child support debt,” Turner said. “They are working for free to satisfy the needs of a private owner the county contracts with.”

The lawsuit was led on behalf of the lead plaintiffs, William L. Burrell Jr. and Dampsey Stuckey, both of Scranton, and Joshua Huzzard of Ocala, Florida, and potentially hundreds more child support debtors who worked at the recycling center over the past 14 years.

The suit challenges provisions within a long-standing contract between the Lackawanna County Solid Waste Management Authority and Lackawanna County Recycling Center Inc., the private, DeNaples-owned company that operates the center. It names as
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A week before the start of his child pornography trial, a Factoryville man pleaded guilty Monday in federal court in Scranton. (read more)

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defendants the county, authority, LRC, the DeNaples and Thomas Staff, a prison employee who oversees the work release program.

Donald Frederickson, the county's general counsel, said he had not yet seen the suit and could not comment. Attempts to reach the DeNaples and Thomas Cummings, attorney for the authority, were unsuccessful.

Lackawanna County originally operated the recycling center with county employees, but it was a chronic money loser. In 2005, commissioners decided to turn over operations to LRC, which agreed to pay the county $60,000 a year. The firm keeps any profit from the center but also absorbs any losses.

Under the contract, which renews every five years, the authority owns the building, but the daily operations and staffing are handled by LRC. The contract also requires the county to provide inmates from the county prison to man the facility — a practice that was in place when it controlled operations.

At the time the deal was inked, county commissioners acknowledged using prisoners to work for a privately run enterprise was unusual, according to news reports. Cummings assured them it was legal because the county still owned the center and their work would benefit taxpayers.

Turner and several other attorneys who joined in filing the lawsuit disagree.

By law, employers are required to pay workers minimum wage, which in Pennsylvania is $7.25 per hour. Inmates are exempt from that mandate if they perform work within a prison setting.

The suit contends that does not apply in this situation because the inmates are working for a private company contracted by the county at a facility outside of the prison walls. Turner said people jailed for failing to pay child support also differ from inmates imprisoned for committing crimes. Child support debtors are jailed under a civil court contempt proceeding, not criminal court.

“These are not folks who are being punished for committing a crime,” Turner said.

Turner and David Seligman, another Towards Justice attorney handling the case, said it's not known yet how many people may be part of the class, but they anticipate it could be hundreds. The amount of damages could be substantial as the suit seeks payment of minimum wage for all hours the debtors worked, which typically was eight hours each weekday.

The lawsuit was filed on behalf of child support debtors and does not include persons jailed for crimes. Turner said attorneys wanted to first focus on child support detainees, but may later amend the suit to include those jailed for crimes.

The case began as a one-man crusade Burrell launched after he was jailed in May 2014 for failing behind on child support payments. Representing himself, he originally filed suit against the center, the DeNaples and multiple county officials. A federal judge dismissed the complaint in 2017, but the decision was overturned last year by the 3rd Circuit Court of Appeals.

That's when the case caught the attention of Towards Justice, which joined with the Community Justice Project in Scranton, which provides legal aid to the poor, and the Colorado law firm of Handley Farah & Anderson, to file an amended complaint.

The amended lawsuit, filed late Monday, alleges county officials "actively misled and exploited" Burrell and other child support debtors "by suggesting to them they were not employees with rights, but rather prisoners whom they could force to perform work as punishment and as a condition of their liberty."
“These actions prevented Mr. Burrell and those similarly situated from understanding that they had a right to a federal and state minimum wage,” the suit says.

The lawsuit says Burrell was sentenced on May 16, 2014 to 12 months for failing to pay $2,129 in child support. He sought work release, but he was told he had to work at the recycling center for half of his sentence, or six months, before being approved for an outside job. Stuckey, who was jailed in 2018, and Huzzard, who was jailed in 2013, also say they were told they first had to work at the center. Their daily stipend was deposited into the prison's commissary account.

The suits say the men and others endured horrid conditions. In addition to sorting through garbage, they often got struck by glass that flew off the conveyer belt, which smashed and splintered onto their faces and arms. When they wiped sweat or liquids off themselves, the splinters would get embedded in their skin. Many workers also developed an itchy, burning rash from being splashed by rancid juices and toxic materials — a condition inmates labeled as “trash rash.”

The suit seeks damages on six counts, including violations of the 13th Amendment of the U.S. Constitution, which outlawed slavery and indentured servitude; the Trafficking Victims Protection Act, which protects against human trafficking and the Racketeering Influence and Corrupt Organizations Act. It also seeks damages for unjust enrichment and violations of federal and state labor laws, including the Pennsylvania Minimum Wage Act and the Fair Labor Standards Act.

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township moved a step closer to paving Simerell Road after receiving a $120,000 state grant. (read more)