

## **Legal Accountability for Private Prison Companies Operating ICE Detention Facilities**

**By: Emma Walsh**

Who is benefiting from the federal government’s ongoing [campaign](#) of abductions and unlawful detentions of Minnesota residents in the name of immigration enforcement? The private corporations that ICE contracts with to hold detainees certainly are.

The Trump administration’s “[One Big Beautiful Bill](#)” allocated over [\\$170 billion](#) in funding for border and immigration enforcement over the next four years. A portion of that unprecedented increase in funding continues to [line the pockets](#) of major for-profit private prison companies, like [GEO and Core Civic](#). As a result of the influx of contracts with the federal government, GEO’s earnings [skyrocketed](#) in 2025, rising to [\\$254.3 million](#) from \$31.9 million the prior year. [In the words](#) of CoreCivic’s CEO, “business is perfectly aligned with the demands of the moment.”

This recent boost in contract revenue isn’t the only factor at play in the financial success of GEO and CoreCivic: [exploiting detainees for cheap labor](#) has long been baked into the business model of the for-profit prison companies facilitating the mass detention of immigrants. Importantly, the private detention model precedes the Trump administration. As of July 2023, under the Biden administration, over [90 percent](#) of people detained by ICE were held in facilities owned or operated by private companies. People confined in these facilities and other stakeholders have sounded the alarm and contested the facilities’ unlawful reliance on forced labor for over a decade. A [2014 investigation](#), for instance, uncovered that the federal government is “relying on tens of thousands of...immigrants each year to provide essential labor—usually for \$1 a day or less at the detention centers where they are held” across the country. In 2017, the Washington State Attorney General successfully [sued](#) GEO for violation of the state’s Minimum Wage Act. The Ninth Circuit recently [affirmed](#) the judgment, requiring GEO to pay workers in Washington detention centers at least minimum wage (currently approximately [\\$17 an hour](#) in Washington).

Another legal challenge initiated in 2014 recently made it all the way to the United States Supreme Court. In *Menocal v. GEO Group*, Alejandro Menocal brought a class action on behalf of similarly situated plaintiffs [alleging](#) that they had been subjected to forced labor during their confinement at a GEO-run immigration detention facility. Forced labor is illegal under federal law: the [Trafficking Victims Protection Act](#) (TVPA), in relevant part, [prohibits forced labor](#) (as required

by the 13<sup>th</sup> amendment's prohibition on slavery). In response, GEO argued that it is immune from suit as a government contractor.

GEO contracts with ICE to operate a private detention facility in [Aurora, Colorado](#). Menocal's challenge focuses on two programs at the facility: the sanitation program and the voluntary work program (VWP). As [described](#) by the Tenth Circuit, the mandatory sanitation program requires detainees to clean common areas in the facility or risk discipline, including solitary confinement or criminal proceedings. Under the VWP, GEO compensates detainees \$1 per day for a variety of other jobs, such as maintaining the facility.

After making its way through the lower courts, the Tenth Circuit denied GEO's motion for summary judgment, and the Supreme Court [granted cert](#). The Court did not reach the merits of Menocal's claim, instead addressing the threshold legal question of whether GEO, as a government contractor, can immediately appeal a denial of their immunity claim.

At oral argument before the Supreme Court, GEO [contended](#) that private contractors are immune from suit because, like government employees, the contractors "are doing the sovereign's work." The argument turned on the parties' dueling interpretations of relevant precedent on contractor immunity from suit, namely, a 1940 case, [Yearsley v. W.A. Ross Construction Co.](#) GEO characterized *Yearsley* as standing for the proposition that private contractors have "common law immunity" when acting under lawful authorization from Congress. Justice Kagan pushed back, observing that *Yearsley* was not actually about immunity from suit at the outset but rather about who was liable to provide relief after trial. Justice Kagan reasoned that a contractor acting on an unlawful order from Congress may have a defense to liability, but expressed doubt that complete immunity from suit is appropriate. Menocal's counsel pointed to a range of authorities establishing that *Yearsley* does not confer on private contractors a right to avoid trial.

The Court ultimately sided with Menocal, [holding](#) that denials of government contractor immunity are *not* immediately appealable. Writing for the majority, [Justice Kagan](#) echoed her observations at oral argument, concluding that "*Yearsley* provides a defense to liability, not an immunity to suit." The case will now proceed to trial or settlement. Amidst the [lawlessness](#) defining ICE's conduct in Minnesota and across the country, the ruling is an affirmation that the federal government's detention apparatus can and should be held accountable for violating the law.