

24-7226 ORIGINAL  
No.

Supreme Court, U.S.  
FILED

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IN THE

SUPREME COURT OF THE UNITED STATES

JOHN ADAMS — PETITIONER  
(Your Name)

vs.

UNITED STATES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

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### QUESTIONS PRESENTED

In 2014 the Supreme Court ruled unconstitutional as applied §229, criminal provisions of the Chemical Weapons Convention Implementation Act, located in Title 22 Chapter 75. (See Bond V U.S 12-158) Also in that case Justice Thomas stated... "There will come a case where this court will have to decide the constitutionality of statutes implementing a treaty and the use of the dictum in Missouri v Holland. The Trafficking And Victims Protection Act also located in Title 22 Chapter 78, carries with it the same weight as Bond but a much heavier burden. Where Bond was one, there are thousands like the petitioner. In 2007 the Supreme Court in Gall v United States, 552 U.S 38(2007) stated" A sentence of imprisonment may work to promote not respect, but derision, of the law if the law is viewed as merely a means to dispense harsh punishment without taking into account the real conduct and circumstances involved in sentencing". Gall, 552 U.S at 54(quoting with approval the reasoning of the district court);See United States v Deegan, 605 F.3d 625, 655(2010)(Bright,J,. dissenting)(Observing that harsh federal punishment when compared to lenient state sentencing for the same conduct "Promotes disrespect for the law and judicial system".) By forgetting, ignoring, misunderstanding, and relabeling the Trafficking And Victims Act, legislation implementing a treaty, courts using a single dictum in Missouri v Holland which states" If a treaty is valid there can be no dispute about the validity of the statute[implementing the treaty]...252 U.S 416, 432(1920) have given many like the petitioner decades in prison, leaving this court no choice but to confront and overturn Missouri v Holland. .

### QUESTIONS PRESENTED ARE:

1. Do the constitutional structural limits on federal authority impose constraints on the scope of Congress authority to enact legislation to implement a valid treaty, at least in circumstances where the federal statute, as applied, goes beyond the scope of the treaty, intrudes on the traditional state prerogatives, and is

concededly unnecessary to satisfy the government's treaty obligations?

2. Can provisions of the Trafficking And Victims Protection Act codified at 18 U.S.C §1591 be interpreted not to reach ordinary domestic, local cases unrelated to transnational crime, where state and local statutes are enough to satisfy the United States treaty obligations, in order to avoid the difficult question on whether to overrule Missouri v Holland?

3. Are the TVPA criminal provisions exempt from the statutory definition of Trafficking in Persons I.E A transnational Organized Crime?

4. Are government prosecutors bound by specific enhancements put in a plea agreement that induced the plea?

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## PETITION FOR WRIT OF CERTIORARI

The framers did not empower congress the authority to expand it's power by negotiating a valid treaty with a foreign nation. While the Constitution clearly empowers federal authorities to negotiate and ratify treaties, it nowhere suggests that the federal government alone is responsible for implementing them or that the normal structural limits do not apply to treaty-implementing federal legislation. The 3<sup>rd</sup> Cir especially Judge Ambro in his concurrence, was not happy with the implications of this expansive view of the treaty power, but it viewed itself bound by this court's 105 year old decision in *Missouri v Holland*, 252 U.S 416(1920)

Purely local domestic prostitution is not an obvious candidate for for federal prosecution, let alone one under a statute located in Title 22 Foreign Relations and Intercourse and designed to implement a treaty combating Transnational Organized Crime. Such prosecutions are the inevitable result of the federal government view of it's unlimited authority under the treaty power. This is the only court that can correct this injustice and clarify that statutes enacted to implement valid treaties, like all other laws, must comply with the Constitution's bedrock structural limits on our system of limited federal powers. The court should grant this petition.

## JURISDICTION

The court of appeals issued it's opinion on March 21, 2025. App 16. This court has jurisdiction under 28 U.S.C §1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Necessary and Proper Clause, Treaty Clause, 10<sup>th</sup> Amendment are reproduced at App.1,2,3

The relevant portions of the 2000 UN Convention Against Transnational



Organized Crime & The Protocol to Prevent, Suppress and punish Trafficking In  
Persons are reproduced at App.-4

The Trafficking And Victims Protection Act, it's criminal provision 18 U.S.C  
§1591

#### STATEMENT OF CASE

This case arises from purely local domestic prostitution seemingly unlikely  
to provoke federal prosecution, let alone a novel invocation of a statute  
designed to implement a major international treaty to combat Transnational  
Organized CXrime.

A. Petitioner John Adams is a 45-year-old man who, until his incarceration lived  
alone with his youngest son. Petitioner also has two adult children and a  
daughter who he shares custody with. He was raised in a military family, and  
due to his parents divorce when he was a toddler, his mother raised both him and  
his brother. Mr Adams maintained study work and graduated form New Jersey Real  
Estate school. In 2019 Mr Adams started a fireworks company. He would buy and sell  
fireworks. He also did displays for the 4<sup>th</sup> of July and New Years. At this  
time Mr Adams was also a manager at Amazon and could not directly supervise the  
different fireworks location, so he would hire local teens from the neighborhood.  
One of the main issues was the transporting and collecting money, and many of  
the young men didn't have cars. One of my neighbors introduced me to Malachi  
Kendall, who he went to school with. He had a car and was paid to help collect  
money and to transport fireworks for Mr Adams. For over a year Malachi and  
Mr Adams became close. Malachi was treated like a son by Mr Adams. He could come  
and go from Mr Adams house as he pleased. Malachi lived with his girlfriend and  
would bring other women to Mr Adams house to cheat on his girlfriend. At some  
point in time in early 2020 was introduced to a prostitute name Vee. She was  
friends with Malachi. Vee needed a place to bring men cause she lived with her  
boyfriend and could not bring other men to her house. Mr Adams was the property

manager for a house on the 2200 block of Cleveland Street that was in the process of being sold and was in closing. To avoid further squatting in the house Mr Adams allowed Vee to use the property at a charge of \$150. The house was a 3 bedroom and Vee was not staying there all the time, so she introduced Mr. Adams to Mercedes AKA Jazz, who also had her own male clients and needed a house to conduct her business. Mr Adams allowed her to use Cleveland Street also for the same fee as Vee both only stayed for a couple of days. Between Jan 10<sup>th</sup> and Jan 13<sup>th</sup> Mr Adams was introduced to victim 1 Janiya age 15, from her cousin who called Mr Adams stating that Janiya got kicked out and need a place to stay till she can ask her grandma can she come stay with them. Mr Adams allow to let Janiya stay with him at his house. When he went to pick up Janiya her girlfriend victim 2 Shaniya came along for the ride. Stating " She was coming to make sure her friend was safe and will leave in the morning". Janiya stayed with Mr Adams for about 1 and a half days. Upon learning that Janiya had invited men to his house while he was not there, Mr Adams asked her to find another place to go. He called Malachi to drive her to her Grandma house in the morning. Instead of taking Janiya to her grandma house Malachi took her to meet Mercedes at Cleveland Street. At Cleveland Street Mercedes assisted Janiya and Shniya in setting up dates. Since Janiya already had clients Mercedes provided her with a place to conduct her prostitution. In a course of a week Mercedes and Malachi use Cleveland Street a property managed by Mr Adams to assist both Janiya aged 15 and Shaniya aged 16 in prostitution. Around or about the 20<sup>th</sup> of Jan 2020, Mercedes refused to pay Mr Adams the \$150 for the week she was at Cleveland so Mr Adams did not allow her to come back. For the next two weeks Malachi and Mercedes took the two girls to local hotels to use for prostitution. On Jan 30, 2020, cops raided the hotel and this started the prosecution of Mr Adams. On April 8, 2021 a grand jury returned a indictment charging John Adams with sex trafficking of a minor and aiding and abetting, 18 U.S.C §1591(a)(1),(b)(2); and tampering with evidence in a federal investigation, 18 U.S.C §1512(b3).

On September 15, 2022, a federal grand jury returned a six count superseding indictment charging Mr Adams with sex trafficking of a minor and aiding and abetting, in violation of 18 U.S.C §1591(a)(1),(b)(2); tampering with evidence in violation of 18 U.S.C §1512(b)(3); and false statements in violation of 18 U.S.C §1001. On November 22, 2022 Mr Adams pled guilty to counts 1-6 of the superseding indictment. Mr Adams filed a motion to dismiss and a motion to withdraw his plea. both were denied. App-5. Mr Adams was sentenced to 300 mos and 10 years of supervised release on May 23, 2024. Mr Adams filed a timely notice of appeal on May 23, 2024 and that appeal is still pending. App-6. Mr Adams appeal is a matter of concerning law and major statute interpretation disputes between federal circuits and agencies.

B. United Nations Convention Against Transnational Organized Crime & Protocols

Since the Trafficking And Victims Protection Act implements the Convention we must start with the Convention. The forward written by then Secretary-general Kofi A Annan, perfectly explains what the treaty was about. He stated " If crime crosses borders, so must law enforcement. If the rule of law is undermined not only in one country, but in many, those who defend it cannot limit themselves to purely national means". Traffickers thrive in countries with weak institutions, and they show no scruple about resorting to intimidation or violence. It is rooted in social and economic conditions in the countries from which the victims come. The Convention noting with deep concerns the growing links between transnational organized crime and terrorist crimes. the deep negative economic and social implications related to organized criminal activites, and the need to strenghen cooperation to prevent and combat such activites.

\* Article 2 Use Of Terms

(a) "Organized Criminal Group" shall mean a stuctured group of 3 or more persons, existing for a period of time and acting in concert with the aim of committing 1 or more serious crimes or offenses established in accordance with this convention.

(c) "Structured group" Shall mean a group that is not randomly formed for the immediate commission of an offense.

\* Article 3 Scope Of Application

1. This Convention shall apply, except as otherwise stated herein, to prevention, investigation, and prosecution of:

(a) The offenses established in accordance with article 5,6,8, and 23 of this Convention. Where the offenses are transnational in nature and involve an Organized Criminal Group.

2. For the purpose of paragraph 1 of this article, an offense is transnational in nature if:

(a) It is committed in more than one state.

(b) Committed in one state but has substantial part of it's preparation, planning, direction, or control takes place in another state

(c) Committed in one state but involves an Organized Criminal Group that engages in criminal activities in more than one state

(d) Committed in one state but has substantial effect in another state

ANNEX 2 PROTOCOL TO PREVENT, SUPPRESS, AND PUNISH TRAFFICKING IN PERSONS

\* Article 1 Relation with the Convention Against Transnational Organized Crime

1. This protocol supplements the UNTOC. It shall be interpreted together with the Convention.

Interpreting this protocol with the Convention means criminalizing Transnational Organized Crime. Crime that is transnational in nature and involves an organized crime group. Article 4 of the Convention is similar to our 10<sup>th</sup> amendment in the Constitution. It protects states from rouge governments. Transnational crimes are not purely local crimes but they can happen in cities across the United States. The Trafficking And Victims Protection Act which implements the Trafficking In Persons protocol simply mimics the treaty and protocol.

### C. TRAFFICKING AND VICTIMS PROTECTION ACT OF 2000

The United States proposed the United Nations Convention Against Transnational Organized Crime and in anticipation of the Convention Congress enacted the Trafficking And Victims Protection Act. The TVPA tracks the Convention and is to be interpreted in the context of the Convention. Congress narrowed the term Trafficking In Persons by specifying a class of persons who are subjected to various forms of severe forms of Trafficking In Persons. In support of this we start with the legislative history, the intent, the statute, and finally the regulations. All four stages clearly speak in terms of severe forms of Trafficking In Person as being transnational crimes.

Pursuant to the time-honored canon *eiusdem generis* "Where general words follow an enumeration of two or more things, they apply only to persons or things of the same general kind or class specifically mentioned". The rationale for *eiusdem generis* canon is twofold; when the initial term all belong to an obvious and readily identifiable genus, one presumes that the speaker or writer has that category in mind for the entire passage. The difficulty of identifying the relevant genus should not be exaggerated. Often the evident purpose of the provision makes the choice clear. Severe forms of Trafficking In Persons at first glance would make one presume that the phrase applied to any and all human beings. However, who taken as a whole one clearly recognizes that if the phrase severe forms of Trafficking In Persons meant all human beings, why would the entire legislative history, intent, statute, and regulations begin and end speaking in clear and specific terms of alien and transnational persons. The word "persons" is not a term of art with a fixed meaning wherever it is employed. (See. Pfizer, Inc v Government of India)(1978)

1. Legislative History- The TVPA and the Protocol to Suppress, Prevent, and Punish Trafficking In Persons was drafted simultaneously by the United States to address the Transnational Crime of Trafficking In Person.

2. TVPA- Congress delegated the authority to the Secretary Of State to promulgate the regulations and implementation of the TVPA, and head the interagency task force to monitor and combat Trafficking In Persons. The Secretary Of State is the United States foreign relations diplomat. The TVPA located in Foreign Relations & Intercourse, which is a strong indication that the act is deeply rooted in foreign policy and matters of national security.

3. Provisions- 8 of the 13 subsections deals exclusively with foreign concerns, immigration policy, and aliens. More importantly, none of the 13 subsections deals with or even makes mention of local domestic prostitution or it's application pursuant to the TVPA. In fact the Senate Hearing on lawenforcement treaties clearly states that the Convention and Protocol does not effect how state address prostitution in it's respective states. See. App-

4. Regulations- Promulgated and implemented by the Secretary Of State, Attorney General, and Homeland Security directs that a (VICTIM) of a Severe Form Of Trafficking In Persons must be an alien who is physically present in the U.S on account of such trafficking.

The act was geared towards use in foreign policy and national security, to matters of transnational crime involving interest of foreign governments and parties.

The DOJ may consistent with the act's scheme and Congress inteny, keep foreign policy and national security in mind in enforcement of the statute.

#### D. SENATE HEARING ON LAW ENFORCEMENT TREATIES SENATE HEARING 108-721

On June 17, 2004 the Committee On Foreign Relations held a meeting to discuss the Un Convention Against Transnational Organized Crime and Protocols on Trafficking In Persons and Smuggling Of Migrants. That meeting was attended by then Senator Joseph R Biden, and former Secretary Of State Anthony Blinken, who was a staff

director then. Opening statement of Chairman Senator Richard Lugar: In addition the last treaty is accompanied by two protocols addressing Trafficking In Persons and alien smuggling. All of these agreements are designed to enhance our ability to join with other countries in fighting crime internationally. The UNTOC and its protocols, are the first multilateral treaties to address the phenomenon of transnational organized crime.

Statement of legal advisor for the State Department Samuel Witten: The Convention not only requires parties to ensure that their national criminal laws meet the criteria set forth in the convention with respect to offenses characteristic of transnational organized crime, but also provides a blueprint of international cooperation. The Protocol to prevent, suppress and punish Trafficking In Persons, was originally proposed and drafted in its earliest form by the United States and has potential to be a powerful international law enforcement instrument. The UNTOC is the first and only global instrument designed specifically to combat the dangerous contemporary phenomenon of criminal groups operating internationally. With the reservations and understandings that have been proposed by the administration, the protocol will not require implementing legislation for the United States. In this connection, the Trafficking And Victims Protection Act of 2000 sets out a comprehensive framework of protecting victims of trafficking and combating Trafficking In Persons domestically and abroad.

Prepared statements of Bruce Swartz, Asst Attorney General: Article 3 of the trafficking protocol, sets forth the definition, may be divided into three components, conduct, means, and purpose. First, the conduct covered by "Trafficking In Persons" is the recruitment, transportation, transfer, harboring or receipt of persons. Second, the the means element can be satisfied by any of the following: The threat or use of force or other forms of coercion, abduction, fraud, deception to achieve the consent of a person(in essence, the buying and selling of persons),,, I would like to point out that the negotiating record set

forth several statements intended to assist in the interpretation of the definition of " Trafficking In Persons". One of those statements makes clear that the protocol is without prejudice to how states parties address prostitution in their respective domestic laws. Thus the practices and policy choices related to prostitution of individual states in the United States are unaffected by this protocol.

**\* Questions by Senator Joseph Biden To Samuel Witten and Bruce Swartz**

1. Are there any related exchange notes, official communications, or statements of the U.S negotiating delegation not submitted to the Senate with regard to the Convention or the two protocols that would provide additional clarification of the meaning of terms of the Convention and the protocols?

Answer, No. The meaning of terms in the Convention and the Protocols is governed in the first instance by the definitions provided in those instruments.

2. The Convention and the Protocols were signed on 12-13-2000. They were submitted to the Senate on 2-23-2004. What was the cause of the delay in submitting the treaties to the senate?

Answer, The interval between United States signature of the Convention and Protocol and their submission to Senate for advice and consent ratification results from their complexity and the need for extensive interagency discussion. Each instrument contains , among other things, detailed criminalization obligations that interact in complex ways with U.S federal and state criminal law. As a result, the DOJ undertook systematic research to ascertain whether existing criminal laws in the United States were adequate to satisfy fully the Convention and Protocol obligations, and the results of their inquiry required extensive subsequent consultation with the Department Of State. Since certain of the criminalization obligations relate to subject -matter which addressed in state criminal law, questions of federalism arose in these discussions, and ultimately a reservation and understanding relating to particular articles of the main Convention and trafficking protocol was prepared.



7. Article 16(1) States that the article applies to " offenses covered by the Convention" or in cases where the offense referred to in article 3(1) (a) or (b) involves an organized criminal group. By it's terms, however, Article 3 requires that any offense be "transnational in nature" and " involve an organized criminal group". What then, is the scope of article 16? Does it exclude the transnational element?

Answer, Article 16 is subject to the general scope provision of the Convention (Article), which requires that an extraditable offense be transnational in nature and involve an organized criminal group. Article 16(1) expressly recites the requirement that an organized criminal group be involved in the offense in order for it to be subject of a extradition request under the Convention. Article 16(1) further provides that the transnationality requirement be met.

Added Questions- The Secretary's letter of submittal states that the negotiating record sets forth six statements intended to assist in the interpretation of the definition of "Trafficking In Persons". Please provide these statements. .

Answer, The six statements are part of the notes for the official records (travaux preparatoires), which are provided to the Senate together with the Secretary's letter of submittal. (See Paragraphs 63-68 P112-13) The statements read as follows:

#### Article 3 Use Of Terms

##### Subparagraph (a)

64. The Travaux Prepartoires should indicate that the Protocol addresses the exploitation of the prostitution of others and othe forms of sexual exploitation only in the context of Trafficking In Persons. The terms "exploitation of the prostitution of others" or "other forms of exploitation" are not defined in the Protocol, which is therefore without prejudice to how states parties address prostitution in their respective domestic laws.

3. The Secretary's letter of submittal, in discussing the term "other forms

of sexual exploitation" references state laws that proscribe a variety of sexual abuse. Do these laws have a trafficking element? If not, how do they meet the obligation to criminalize trafficking in persons for the purpose of other forms of sexual exploitation? Please elaborate!

Answer, The state laws addressed in the Secretary's letter also proscribe a variety of forms of sexual abuse, as well as attempted commission of such offenses. However, these laws generally do not have an element of recruitment or transportation. As explained in the transmittal package, there may therefore be scenarios in which the act of Trafficking In Persons for the purposes of sexual exploitation would not be punishable under the relevant state criminal law governing attempted or completed sex abuse. Accordingly, we proposed the federalism reservation to address the possibility that there may be purely local crimes that would not be covered by federal law, and would not be covered by state sex abuse laws.

5. The proposed reservation related to federalism appears to be broader than any reservation entered to date by any state party to the Protocol?

Answer, The proposed federalism reservation to the Trafficking In Person Protocol is analogous to that also proposed with respect to the Transnational Organized Crime Convention. It explains The United States federal criminal law[TVPA] relating to Trafficking In Persons, and notes that this federal law will be the "Principal legal regime" for combatting this offense... This offense is clearly Transnational Organized Crime not local prostitution. During the course of the treaty negotiations on both the Convention and the Protocols, the U.S delegation informed other delegations about the nature of our legal system, in which both federal and state substantive criminal law may be relevant in order to implement criminalization obligations established in an international instrument.

The record of the TVPA, Senate hearing, and the Convention with it's Protocols all establish the transnational element of Trafficking In Persons. The DOJ and Secretary Of State agreed that state laws and federal laws consistent with

federalism will be needed to implement the Convention and the Protocols

**CIRCUIT AND FEDERAL AGENCY CONFLICT ON THE MEANING OF TRAFFICKING IN PERSONS AND THE APPLICABILITY OF THE TRAFFICKING VICTIMS PROTECTION ACT**

\* *Roe v Howard*, 917 F.3d 229, 244(4<sup>th</sup> Cir 2019)

Judge King stated "The congressional findings that accompanied the TVPA in its original form repeatedly emphasized the transnational nature of human trafficking and sexual exploitation, and the enforcement challenges posed by the international scope of the criminal activity". "Viewed as a whole, the TVPA represents a far-reaching congressional effort to combat transnational human trafficking on numerous fronts, including by expanding the civil claims and remedies available to its victims". This is, in short a situation in which Congress was clearly concerned with international rather than purely domestic matters.

\* *Fierro v Taylor* 2012 U.S Dist Lexis 20634

District Judge B. Jones using *U.S v Bonestroo*, No. CR-11-40016, 2012 Lexis 981 and *U.S n Jungers*, CR-11-40018 Lexis 139788, stated "The legislative history of the TVPA underscores Congress's intent to punish perpetrators of large scale trafficking enterprises". (See. 146 Cong Rec S10164-02, Daily Ed. Oct 11, 2000)(Statement of Senator Wellstone)("For the traffickers, the sale of human beings is a highly profitable, low risk enterprise, as these women are viewed as expendable and reusable commodities".)The term "trafficker" is often used to refer to individuals who lure and entice women and children from underdeveloped countries to become slaves or prostitutes in America. Moreover, at the time Congress enacted the TVPA, other statutes were already on the books that criminalized purchasing sex from minors or from adults by means of force. (See. 18 U.S.C §2241, §2242, §2243, §2422) The principal catalyst for enacting the TVPA was the absence of laws to adequately punish traffickers.

\* *El Bay v Dominguez* 2:20-CV-73-Z-BQ Lexis 244000(5<sup>th</sup> Cir 2020)

When trafficking involves involuntary servitude, it is prosecuted under the 13<sup>th</sup>

amendment otherwise the United States enforces the antitrafficking protocol to the UN Convention Against Transnational Organized Crime. To the extent the protocol applies, the record offers no facts to suggest the defendants alleged actions appears to have been transnational or conducted by an organized criminal group.

\*Headley's v Church of Scientology Int'l, 687 F.3d 1173

The Headley's thus wagered all on a statute enacted to combat the transnational crime of Trafficking In Persons- particularly defenseless, vulnerable immigrant women and children. (See. 22 U.S.C §7107(a), (b)(24)(11)(2)(4)(17)(22))

To make things even more clear the Secretary Of State who Congress gave authority to implement the rules and head the trafficking task force has created definitions for the TVPA.

\* State Department Rewards Program §2708

(j) Determinations of the Secretary

A determination made by the secretary under this section shall be final and conclusive and shall not be subjected to judicial review.

(k) Definitions

(7)(a)(i)(ii)

Transnational Organized Crime- Means racketeering activity that involves at least one jurisdiction outside the United States or any criminal offense punishable by a term of at least 4 years imprisonment under federal, state, or local law, that involves at least 1 jurisdiction outside the United States.

(8) Transnational Organized Crime Group- Means a group of persons that includes one or more citizens of a foreign country, exist for a period of time, and acts in concert with the aim of engaging in Transnational Organized Crime.

\* U.S v Real Property Located at 9144 Burnett Rd, 104 F. Supp .3d 1187

The United States argues that it would be obligated to extradite Nemes under UNTOC. Under the UNTOC, any violation is extraditable, if it is transnational

in nature and involves an organized crime group. In this case the defendant was charged with 18 U.S.C §981(a)(1)(a) and 18 U.S.C §1956(a)(1)(c)(7)(vi), which requires extradition and forfeiture of property in the United States. The government argued and the court agreed that in order for both to take place, the offense had to be transnational in nature and involve an organized crime group. In civil cases the government are using statutes that implement the United States obligations under the UNTOC, and they need the transnational element so why not the same in criminal cases?

#### USCIS POLICY MANUAL

##### \* Chapter 1 Purpose & Background

###### A. Purpose

The TVPA of 2000 was enacted to strengthen the ability of law enforcement agencies to prosecute Trafficking In Persons. Allowing victims of such trafficking to apply for T-nonimmigrant status. (T-Visa)

###### \* T Visa Eligibility

- Have been a victim of a severe form of Trafficking In Persons;
- Are physically present in the United States, American Samoa, or U.S port on account of such trafficking.

Why do immigrants for whom the TVPA was created, have to be present in the United States on account of a severe form of trafficking but the DOJ can convict people based on a suspected victim just being in the United States. Statutes are not chameleons, meaning one thing in one setting, another in another. (Esquivel-Quintana v Lynch, 810 F.3d 1019, 1028 6<sup>th</sup> Cir)

#### MISSOURI V HOLLAND

As Justice Alito put it in oral arguments for Carol Anne Bond v U.S (No. 12-158) "One of the original purposes of the objectives of the Constitution was to deal with a treaty power was to deal with issues of debt owed to British creditors. And there have been cases about property rights of foreign subject, about the

treatment of foreign subjects here, about things that are moving across international borders, about extradition and all of those. But in all of those, until fairly recently, certainly until, generally, after World War II, all of those matters concerned were legitimate concerns of a foreign state. That was the purpose of a treaty. So can't we see something in that, in the meaning of a treaty, what it was understood to mean when the Constitution was adopted". All circuits are bound by a single dictum in *Missouri v Holland*, 252 U.S 416(1920), to uphold any statute by Congress implementing a valid treaty. Some circuits have gone even further stating: "When a min standard is set, Congress may implement the treaty's aim with legislation going further than the specific text". (*U.S v Belfast*, 611 F.3d 783,807) Our treaty obligation, at most, is to have laws that prohibits the conduct in the treaty. Every state is absolutely ready and able to shoulder the task of protecting our children. All implementing legislation should be consistent with our basic chartering document. Reason some treaty's are non-executing is to preserve federalism. The tenth admendment makes express what is otherwise implied by the structure of the Constitution. In 2011 the Supreme Court eloquently stated: The tenth admendment express prohibition on the use of power protects liberty. It ensures that the people of each state will not be governed by some remote national or international government entity about matters concerned with their safety, health, and welfare. The expansive readinf in *Holland* vest the treaty power in the federal government a plenary "acquirable police power" to do just about anything it wants. *Holland* sweeps away any constitutional barrier to the reach of the treaty power, it treats the tenth admendment as if it does not exist. Granting Congress plenary power to enact any law on any subject covered by a treaty. *Holland's* opinion is a blatant and unavoidable affront to a constitutional government of limited powers. As documented by the ABA task force on the federalization of criminal law, "the fundamental view that local crime is, with rare exception, a matter for the

states to attack has been strained in practice in recent years".(The federalization of Criminal law ABA 1998 P.5) Congressional activity making essentially local conduct a federal crime has accelerated greatly, notably, in areas in which existing state law already criminalizes the same conduct. This troubling federalization trend has contributed to a patchwork of federal crimes often lacking a principles basis [Aba report P.5] all too often, Congress treats the Constitution enumerated powers as a grab bag of potential authority to criminalize private behavior, unmoored to either constitutional text or history. Latching primarily to the Commerce Clause, Congress has criminalized behavior based on a person or product merely crossing state lines. New crimes are often enacted in response to newsworthy events, rather than as part of a cohesive code developed in response to an identifiable federal need. Instead of honoring the deeply rooted principle that the general police power resides in the states and that the federal government law enforcement should be narrowly limited. Congress continues to criminalize more and more conduct, in disregard of the constitutional vision that the federal government should play a narrowly circumscribed role in defining and investigating criminal conduct within the states. The potential penalties for violations of the Trafficking Victims Protections Act are disproportionate to the blameworthiness of the crimes committed. The sentences imposed for violating the statute is far more severe than a person would receive under state law for the same conduct. Many circuits have express concern about this practice. "A sentence that is disproportionately long in relation to the offense is unjust and likewise fails to promote respect for the law".(U.S v Ontiveros, 07-cr-333 2008) Unwarranted sentencing disparity breeds disrespect for the law".(U.S v Irey, 612 F.3d 1160,1239)(Hill, J concurring) Further the mens rea required to commit some TVPA offenses can be met by average teenage dating activity. Stripped of the moral foundation of traditional criminal law, when federal government prosecutes purely local prostitution crimes it undermines the rich moral precepts

that undergrid the exercise of the police power traditionally exercised by the states in our system of government. Under the American constitutional republic, it is the several states, not the federal government that are repositories of that moral capital. Congress have no plenary power to enact laws enforceable against the people so they used the Necessary and Proper Clause to enforce it's treaty making power to enact the TVPA. A power given by the Constitution cannot be construed to authorize a destruction of other powers given in the same instrument. It must be construed, therefore, in subordination to it, and can not supersede or interfere with any other of it's fundamental provisions.

(2. Story's Commentaries, §1508 at 339)(St. G Tucker, limitations on the treaty-making power, §122, P.139) Joseph Story warned against an expansive interpretation of the treaty making power that could annihilate other authorites, changing the organization of government or overturning it's republican form. Story contended that any such treaty would be found void because it would destroy, what the Constitution was designed to fulfill, the will of the people. St. George Tucker likewise worried that, because there is no restrictions to the subject of treaties, there is only two constitutional guarantees that protect the states, the one securing the states a republican form of government and the other securing the states authority to self protection against invasions. In sum, both Story and Tucker cautioned that the treaty power not be read in a way that would dismember the federal republic. At the heart of the constitutional guarantee of a federal republican form of government to every state is the principle that the laws are to be enacted by representatives of the people of each state.(4 The Founders Constitution, item 13, PP.571-72) The tenth admendment ensures the enactment of positive law is left to the initiative of those who seek a voice in shaping the destiny of their own times without having to rely solely upon polilical processes that control a remote central power. The treaty power must be made subordinate to th tenth admendment, first because it is a power that can be



exercised unchecked by the house, which is the legislative branch of the national government closest to the people. Second, the treaty power can be misused as a vehicle to transfer the power reserved to the people and to the states to international bodies, disenfranchising the people of the several states and imposing upon the people of the states a totally foreign political or moral standard. The treaty power can also be used to vacate previous Supreme Court Decisions. In April of 2013 the United Nations general assembly overwhelmingly approved a pioneering treaty aimed at regulating the enormous global trade in conventional weapons. For the first time linking sales to human rights records for buyers. The object of the treaty is not commercial. Such a treaty on gun control could not only serve as a pretext for centralizing the regulation of firearms in the United States, but also a pretext for globalizing gun control including a ban on assault weapons. The tenth amendment is the front line defense of the right of each state to set the moral standard governing the transfer and use of firearms within their respective local jurisdiction. Missouri v Holland would render any statute created by Congress to implement this treaty as a valid act of law. In so many words, Holland rejects the Constitution's delineation of what powers the federal government does possess, and replaces it with the court's vision of what powers a civilized government should possess. Holland cannot be ignored again. It must be confronted and overruled. Ron Paul's farewell speech to Congress sums up this argument and makes it even clearer. "My goals in 1976 were the same as they are today, promote peace and prosperity by a STRICT adherence to the principles of individual liberty. Just following the constraints placed on the federal government by the Constitution would have been a good place to start".

#### THE OPTIONAL PROTOCOL ON THE RIGHTS OF THE CHILD THE PROTECT ACT

In May of 2000, the United States entered into the Optional Protocol on the rights of the child, buying and selling of children, child prostitution, and child pornography. To meet it's treaty obligations,

Congress amended the Mann Act statutes, the amended law now known as the Protect Act which covers prostitution offenses of adults and children no matter if the offenses are transnational or domestic, by an individual or by a group. Thus Congress took care to address child prostitution by amending the Mann Act, and it would not have deemed it necessary and proper to enact another statute months later covering the same exact subject matter. The language Congress uses in the Protect Act is exactly what the Supreme Court meant when it stated Congress should speak clearly regarding its intent in a statute. Clearly Congress wouldn't of stated "Whether the offenses are transnational or domestic" in the Protect Act if transnational meant or could be interpreted as meaning purely domestic. The Trafficking and Victims Protection Act has no such language. It clearly states "Trafficking in persons is a transnational crime with national implications". (See U.S.C. 78 §7101(b)(24)).

#### THE WHITE SLAVE TRAFFIC ACT THE MANN ACT

The fear of endless supply of both foreign prostitutes and foreign men luring American girls into immorality, led the Committee on Interstate and Foreign Commerce to draft a bill. This bill intended to bring the United States in compliance with a 1904 international treaty on forced prostitution, but much of the wording was drawn from sections of the 1907 Immigration Act, which banned the "importation into the United States of any alien women or girl for the purpose of prostitution, or any other immoral purpose". The FBI failure to find widespread evidence of "White Slavery" networks, led prosecutors to begin using it against other forms of consensual sexual conduct. Prostitution of both women and girls have been

a part of American society since colonial era. Women and girls were sexual partners for the soldiers and officers during the American Revolution. In the mining towns prostitution flourished. The regulation of prostitution in this country is exclusively the domain of the states to permit, prohibit, or otherwise regulate commercial sex under the tenth Amendment. Forced prostitution is illegal in every state in America. Pennsylvania like every other state has an age of consent. In Pennsylvania the age of consent is 16. So using the federal governments logic of the prosecutions of §1591, they are basically saying a 16 year old can have sex with who ever they choose to, but if they ask for money to engage in that sexual activity you can possibly go to prison for the rest of your life.

GOVERNMENT BREACHED THE PLEA AGREEMENT BY ADVOCATING FOR  
ENHANCEMENTS NOT STIPULATED IN THE PLEA  
THAT RAISED THE STIPULATED GUIDELINE RANGE

The plea agreement Mr Adams signed clearly stated: Pursuant to U.S.S.G §6B1.4, the parties enter into the following stipulations.

1. The parties agree and stipulate the defendant's base level offense level is 30.
2. A 2 level increase for use of a computer
3. A 2 level increase because the offense involved a sex act
4. A 2 level increase because the offense involved obstruction of justice

This brought the offense level to 36.(App-3 Page 8, #12(A)(B)(C)(D) Also the parties agree to and stipulate that a 2 level downward adjustment and a 1 level downward adjustment, bringing the offense level to a 33.(App-3 Page 9, #12(E)(F) The government made promises to seek specific enhancements that the prosecutor did not intend

to keep. Due process requires relief if the prosecutor failed to perform a promise that induced the plea. (Santobello v US, 404 U.S. 257, 92 S. Ct. 495, 30 L. Ed. 2d 427 (1972)) At the time of the plea agreement, there were no other guidelines available for the defendant to stipulate or agree to but the one calculated by the terms of the plea agreement. So the statement allowing the government to make any recommendation within the sentencing guideline range clearly means the guideline range available at the time of sentencing. Plea agreements are contracts. Each side agrees to certain sentence calculations and gives up its right to take other positions. No matter what the plea agreement says, they may not lie to or mislead the court. (Wharton v Superintendent Graterford SCI, No. 22-2839, 95 F. 4th 113, 2024) In the petitioners plea there is a general provision that states: At the time of sentencing, the government will make whatever sentencing recommendations the government deems appropriate provided it's within the applicable sentencing guideline range. (App-3 Page 2, #2(A)) There are many problems with this provision. First, The provision causes an ambiguity in the plea agreement. To the extent there is ambiguity caused by 'little bit of poor draftmanship' conceded by the prosecutor, we must construe the agreement against the government as drafter. (US v Rivera, 357 F. 3d 290, 295 (3d Cir)) Abrogated on other grounds by (Puckett v US, 556 U.S. 129, 134, 129 S. Ct. 1423, 173 L. Ed. 2d 266) (US v Floyd 428 F. 3d 513, 516 (3d Cir)) Secondly, the specific stipulations listed in the plea agreement trumps the general provision. (Rivera, 357 F. 3d at 295) So the general provision of the deal does not get the prosecutor out of its duty to stick to the guideline enhancement stipulated in the plea. In short, the

plea agreement barred the prosecutor from advocating or asking for any sentence or enhancement that raised the offense level past what was stipulated. (US v Danny Cruz, 95 F.4th 106) 3d Cir) When apparent consistency is between a clause that is general and broadly inclusive in nature and one that is more limited and specific in its coverage, the more specific should be held to prevail. (US v Isaac Rivera, 357 F.3d 290 (3d Cir)) Breach of a plea agreement by a prosecutor strikes at public confidence in the fair administration of justice. The government's conduct was inconsistent with what the petitioner reasonably understood when entering the plea of guilty. (US v Badaracco, 954 F.2d 928, 939 (3d Cir)) Because the offense level was stipulated to, and the enhancement that raised the offense level was stipulated to, the government's endorsement of any enhancement that would raise the offense level above that stipulated level contravened the plea agreement. The petitioner's motion to withdraw his plea when he was made aware that the government was seeking 30 years, clearly suggests he did not accept the theory that the plea agreement authorized the government to advocate for other enhancements not in the plea agreement. The government can't make end-runs around its assurances. (Santobello v New York, 404 U.S. 257, 92 S.Ct. 495, 30 L.Ed.2d 427 (1972)) The government breaches a plea agreement when its overall conduct is "inconsistent with what was reasonably understood by the defendant, that induced the plea" (US v Nolan-Cooper, 155 F.3d 221, 236 (3d Cir)) In other words, "the government may not introduce its agreed-upon terms with a wink and a nod". (Lacombe v Warden James T. Vaughn Corr. Ctr, 95 F.4th 127, 135 n.11 (3d Cir))

## REASONS FOR GRANTING THE PETITION

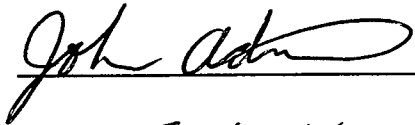
The questions presented are of imperative public importance, the need for this courts immediate determination to maintain a uniform national standard of interpretation. The needs of many; outweigh the needs of the few; or the one. The 3<sup>rd</sup> Cir got it wrong in BOND two times, and because this court choose not to answer the Constitutional question, it has allowed for the incarceration of thousands, destroying the impoverished and perpetuating mass incarceration. Our country has 4% of the worlds population but 20% of it's prisoners. (See. Peter Wanger & Wanda Bertram, Prison Pol'y Initiative 2020) The routine of using the Trafficking Victims Protection Act, from the statute to using the enhancements to double punish in order to add decades of time to 0 point offenders has gone unchecked in the name of Transnational crime and TERRORISM) "The disease which inflicts bureaucracy and what they usually die from is routine"(Stanford Encyclopedia Of Philosophy) The prosecution of the petitioner candidly acknowledges a treaty power unchecked by the most fundamental structural limits of the Constitution and our federalism. In these circumstances, only this court can clarify the the treaty power, like every enumerated power granted to the federal government, remains subject to the basic structural limits of the Constitution. No grant of power or clause can grant another power or clause to do what the Constitution forbids. The especially important and recurring issue of "acquired police power" is indeed, antithetical to fundamental tenets of our federal government of few and defined powers. The farmers did not grant Congress authority to expand it's limited powers based on negotiations with foreign governments. Given the central government's seemingly insatiable appetite for

the federalization of traditional state crimes, the importance of clarifying the scope of the federal government's authority to criminalize purely local conduct when seeking to implement treaties is obvious. As this court has reasserted the importance of federalism and the limits on Congress "enumerated", the confusion in the lower courts and the need for this court's review has grown more acute. The expanding scope and number of international treaties and the ever increasing federalization of local criminal law threatens the vitality of this court's recent federalism jurisprudence, and runs a risk of disrupting the delicate balance between state and federal authority. When Congress used the Trafficking Victims Protection Act to implement the United Nations Convention Against Transnational Organized Crime it clearly understood the intent of the treaty and its goals, that along with the placement of the TVPA in Title 22 Foreign Relations And Intercourse clearly highlights Congress intent. The DOJ has no authority to change that intent. This court's review is needed to eliminate this threat to "the integrity, dignity, and residual sovereignty of the states" and the individual liberty that the Constitution's division of powers was intended to protect. (Bond, 131 S Ct at 2364)

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
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Date: Feb 16, 2025