



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 17546225

Date: AUG. 26, 2022

Appeal of Vermont Service Center Decision

Form I-914, Application for T Nonimmigrant Status

The Applicant seeks T-1 nonimmigrant classification as a victim of human trafficking under sections 101(a)(15)(T) and 214(o) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(T) and 1184(o). The Director of the Vermont Service Center denied the Form I-914, Application for T Nonimmigrant Status (T application), concluding that the Applicant had not demonstrated that she was a victim of a severe form of trafficking in persons and that, as a result of this determination, she had not established she was physically present in the United States on account of the claimed trafficking or she had complied with reasonable requests for assistance in the investigation or prosecution of severe forms of trafficking. The matter is now before us on appeal. We review the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015); 8 C.F.R. § 214.11(d)(5). Upon *de novo* review, we will remand the matter to the Director for the issuance of a new decision.

I. LAW

Section 101(a)(15)(T)(i) of the Act provides that applicants may be classified as a T-1 nonimmigrant if they: are or have been a victim of a severe form of trafficking in persons (trafficking); are physically present in the United States on account of such trafficking; have complied with any reasonable requests for assistance in the investigation or prosecution of trafficking; and would suffer extreme hardship involving unusual and severe harm upon removal from the United States. See also 8 C.F.R. §§ 214.11(b)(1)-(4) (reiterating the statutory eligibility criteria). The term “severe form of trafficking in persons” is defined in 22 U.S.C. § 7102(11) and 8 C.F.R. § 214.11(a) as “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”¹

The Applicant bears the burden of establishing their eligibility, and must do so by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

¹ The definition of trafficking also includes “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act is under the age of 18 years.” *Id.* The Applicant does not allege nor does the record support that she was a victim of sex trafficking.

II. ANALYSIS

The Applicant, a 34-year-old native and citizen of India, last entered the United States in February 2016. In May 2019, she filed the instant T application claiming her spouse subjected her to trafficking in the United States. Contrary to the decision of the Director, the Applicant has submitted sufficient evidence to establish, by a preponderance of the evidence, that she is a victim of a severe form of trafficking in persons. Accordingly, we will remand the matter for the Director to determine whether the Applicant has met the remaining eligibility criteria under section 101(a)(15)(T)(i) of the Act.

A. The Applicant's Trafficking Claim

The Applicant's declarations in the record explained that her marriage to M-L-² was arranged by their families and that she had only seen him five or six times before their wedding. She explained that she did not have a choice in whether or not to marry him; it had been decided for her as arranged marriages are part of their culture. However, the Applicant stated that she believes M-L- and his parents defrauded her family, mainly for financial gain, as they lied about their wealth and M-L-'s purported employment at [REDACTED] in the United States. She and her parents had to rush the wedding because M-L- and his parents claimed he had to return to the United States for work (at [REDACTED]). However, the Applicant stated that after the wedding, they remained in India with M-L- and his parents for approximately 10 months and when they finally entered the United States, M-L- had a job with [REDACTED]

The Applicant recalled that immediately following their engagement, M-L- and his parents became very demanding of her and continuously insulted her. She stated that she had been a practicing dentist but was forced to quit her job in order to attend domestic classes required by M-L- and his parents; he and his parents "ordered and forced [the Applicant's] mother to take [her] to cooking classes, prayer classes[,] and to temple to pray," along with English classes. After the wedding, she had to live with M-L- and his parents in India, until they were ready to come to the United States. She stated that M-L- and his parents were very strict with her, did not allow her to work and "prohibited [her] from visiting [her] parents and from communicating with [her] friends and family," while expecting her to cook, clean, and care for them all day long. She specifically expressed that she "lost [her] ability to exercise [her] free will and [her] life changed completely." She recalled that when they learned she was pregnant, M-L- and his family "told [her she] had to give them [her] phone because it was harmful to the baby" and "took away [her] laptop, [also] saying it was harmful to the baby." She stated that although she knew none of this was true, she could not refuse.

About two months after the birth of their daughter, the Applicant was forced to move to the United States with M-L-, who immediately took their passports and identity documents. She stated that she "had no choice [because M-L-] said [she] was his wife and had to be wherever he was." She explained that M-L- had full control of everything and constantly reminded her of it by telling her that she should be grateful to him and that "he could take [her] visa away whenever he wanted." She stated that M-L- also did not give her access to money or tell her where he kept the money; even if it had been provided by her parents, he would not allow her to access it. She stated that her use of the money

² We use initials to protect the privacy of individuals.

always required M-L-'s approval and he often refused to give her money for basic things she had to beg for. When he would give her money, she had to justify every cent spent, had to provide receipts, and had to explain each expense to M-L-. She recalled that she was not allowed to buy anything for herself, not even soap or shampoo; she could not incur any expenses of her own. She also explained that M-L- took money and jewelry that her parents had provided them as part of her dowry and she does not know how to retrieve it. She further stated that during the course of the marriage, M-L-'s parents "blackmailed [her] parents, stating that they would abuse [her] in order for [her] parents to send more money." She also recalled that she was unable to make any international phone calls to her parents in India while in the United States. She stated that M-L- would check her cell phone activity and he told her the call details and voicemails went straight to his email; he would also change the Wi-Fi password so she could not use the internet.

The Applicant explained that she traveled back and forth to India on three occasions during her marriage to M-L-, twice with M-L- to visit his family, and once with her parents in an attempt to leave him. She recounted her parents' visit to the United States for her daughter's first birthday and detailed how they witnessed M-L-'s (and his parents') abuse. Specifically, M-L- required the Applicant to cook for 200 guests of the birthday party because she did not have a job and did not otherwise contribute monetarily to the party. Her parents later argued with M-L- and his parents about their treatment of the Applicant and demanded M-L- return her passport to them, which he did after the Applicant's father threatened to call the police. She stated that during the argument, M-L- started twisting her arm and when her father tried to get him off of her, M-L- pushed her father. Her parents arranged for her to return to India³ with them and she stated that she "thought [she] had finally escaped the terrible conditions [she] was living in, but the pressure in India to remain married and to [return] to [her] husband prevented [her] from being free." However, while in India, the Applicant and her parents were faced with pressure from the community for the Applicant to return to M-L- in the United States.⁴ As a result, her parents ultimately forced her to return to M-L-, hoping that he would change his treatment of her. She recalled that M-L- stated he would take her back upon several conditions: 1) her parents had to give him \$5,000 "for the damage [she] had caused him;" 2) her parents had to pay for her flight to the United States; 3) her parents had to apologize to M-L-'s parents for offending them by taking her away; and 4) she could not communicate with her parents any longer. At first, her parents did not want to agree to these terms, but she stated that the societal pressure became so great that they gave M-L- all that he asked for. She explained that her parents could not afford the \$5,000 and only gave him \$3,000 - \$3,500. She then stated that "[M-L-'s] parents said that they would accept the apology as long as there was no contact" between the Applicant and her family. She stated that her parents hesitantly agreed to those terms "as long as [M-L-] stopped physically assaulting [her]," but he did not. The Applicant explained that, upon her return to M-L- in the United States, her living conditions worsened, "[M-L-'s] violence would not stop," the work he assigned her also became more intensive, and "[M-L-] was much more violent."

On her final trip to India with M-L- and her daughter, they stayed with M-L-'s parents and attended social events with them. She stated that M-L- would treat her badly in front of others and continued to treat her like his property. She stated that upon their arrival in India, M-L- took their passports and

³ The Applicant did not discuss the whereabouts of her daughter during this time.

⁴ The Applicant suspected that M-L- and his family may have had something to do with this narrative within the community.

told her he was going to get them Canadian visas.⁵ However, on the day they were supposed to return to the United States, M-L- told her that her and her daughter's passports were lost and he would be returning without them. She explained that she "went into a state of terror, thinking this was part of a plan [M-L-] and his parents had arranged in order to kill [her], or to take [her] daughter away from [her]," and she thought this was a punishment for her having returned to India with her parents earlier that year. She stated that, although M-L- and his parents were the ones in possession of her and her daughter's passports, and she never had access to them, they made her go to the police department and declare the passports lost as if she had been the one to lose them. She then obtained new passports and new U.S. visas for her and her daughter, and returned to M-L- in the United States later the same month. She explained that M-L-'s father purchased their airfare and drove them to the airport for their return. She stated that, upon their return, "[M-L-] took [their] new passports and hid them somewhere."

The Applicant described her time with M-L- as terrible, and explained that he treated her as his servant or slave for the entire duration of their marriage. She stated that M-L- would hit her anytime she questioned him or whenever she "disobeyed" him. She stated that "[M-L-] continued treating [her] like his slave [and] continued beating [her] and physically torturing [her] so that [she] would clean and do the work he demanded." She explained that she "[felt] that [M-L-] did use [her] for domestic labor, [she] felt and still feel[s] today that he never considered [her] as a wife, [but] just as a servant to him and as someone to care for his child." First, she indicated that this treatment began while they were living in India after the wedding. The Applicant stated that it seemed as if "this was their plan all along, to just use [her] for housework, cooking and cleaning" and "that is why they made [her] take the cooking classes, they were very demanding." She recalled that M-L- "would write down a timetable and tell [her] what to do every hour of [her] day," while his family would also add tasks to that list, and she was expected to follow all their orders. She stated that M-L- "always determined [her] daily routine," including "what time [she] should wake up, what [she] needed to do throughout the day, the tasks [she] needed to complete for him and his family, and he sometimes even included when [she] could eat," and she "was expected to follow this list without resistance." The Applicant specifically stated that "[M-L-] said he expected [her] to think of him as [her] 'master,'" which made her feel "completely helpless [as] he was extremely controlling."

Then, the Applicant recalled that "immediately after arriving to the U.S., [M-L-] and his family used [her] as a slave [and she] was not treated well." She stated that she "was used as a cook, maid, masseuse, [and she] was the one who did everything." She further stated that she "was forced to do these things or else [she] would be beaten up" and that it was not the normal household chores a regular wife would do for the family. Rather, "[M-L-'s] demands and expectations would never end [and] even after [she] finished all the work for the whole day, [he] would give [her] something else to do." The Applicant recalled that M-L- traveled to another city for work during the week and stayed at their home on the weekends. However, his time away during the week did not affect his control over her daily routine. She recounted that she was expected to complete a tremendous amount of domestic work while caring for her daughter on a daily basis. She stated that M-L- checked in on her all the time to make sure she was completing the work and was very demanding of her, even when he was not around. She stated that she "wasn't allowed to decide things for [her]self" and M-L- would leave her a list of things to do—she had to clean the apartment vigorously and he demanded she cook three

⁵ The Applicant stated that she did not know if this was true or what M-L- did with the passports.

meals a day for herself and the baby, even while he was not there. She stated that M-L- also made “timetables” for the baby to dictate the baby’s schedule and “would constantly harass [her] if [she] was falling behind.” She also recalled that M-L- would call her multiple times a day on the landline to confirm that she was doing what he said and later got her a cell phone to video call her and check what she was doing and where she was. The Applicant indicated that she later learned M-L- was fired from his job because he was always on the phone and his boss determined that M-L-’s personal life was affecting his focus at work.

The Applicant stated that M-L- demanded three authentic Indian meals each day that each took one and a half to two hours to prepare and he determined the menu. She stated that M-L- “also determined when and what [she] could eat,” along with “what [her] daughter ate and how [she] had to prepare it.” She indicated that “[M-L-] controlling what [she] ate started when [she] got pregnant, but he would also control how much [she] was able to eat,” which became difficult while she was nursing. She stated that “[M-L-] knew he was making [her] suffer” and would make her eat leftovers that were 10 days old or food that he knew hadn’t turned out properly, even if he knew it had gone bad and even if there was fresh food available.

The Applicant also described additional labor M-L- forced her to perform and stated that he “forced [her] to do catering for him and other domestic work.” She described an incident when M-L- gave her about 30 long-sleeve shirts and told her to alter them into short-sleeve shirts by hand. She stated that she does not know whether all the shirts belonged to M-L- or if he charged people money for her alteration work because she only saw him wear some of the shirts after that, but not all of them. She further stated that M-L- never paid her for all of the alteration work she completed. Additionally, the Applicant described instances when M-L- would invite guests over and force her to cook several course meals for them in order for him to make friends, including about a one-year period where he invited a group of 10-15 people, from a non-profit organization, over for dinner twice a week. She stated that she was not allowed to sit and eat with them; she only cooked, served, and cleaned for them. She indicated that she felt “as [if M-L-] was using [her] as a chef, and using [her] to get everyone to like him, he never thanked [her] or [paid her] for this.” The Applicant also described countless times when M-L-, through his involvement in the non-profit organization, forced her to cook large quantities of food that he would load in his car and take to a different location. She stated that she did not know where he took the food or if anyone even knew that she was the one doing all the work. She stated that “all [of] this was forced on [her], if [she] disobeyed, [she] would be beaten up. [She] was helpless, [] isolated from [her] family, [and] did not have access to [her] passport or money to be able to leave the situation.” She further indicated that M-L- told her on several occasions, before and during their marriage, that “the main reason he married [her] was [because] he hoped that [she] would work as a dentist in the U.S. [and] that way he could use [her] to make money.” However, she explained that due to all of the abuse, she was unable to study and obtain her license to work as a dentist in the United States, “which badly disappointed him, but he still made money from [her] and took advantage of [her] for his own personal reasons.”

The Applicant stated that the physical abuse began while she was six or seven months pregnant in India. She stated that “[M-L-] would always take his anger out on [her]” and recounted one time “he slapped [her] so hard that [she] had a bump on [her] head for a long time.” The Applicant then recalled that, upon moving to the United States, the physical abuse got worse and “[M-L-] would leave [her] with bruises, and [she] would be in pain for days afterwards.” She stated that hitting her became a

habit for M-L- and he never apologized for it. She recalled that “[M-L-] always said that these chores and duties were [her] responsibility” because he was working so she had to take care of everything else. She stated that “[M-L-] would sometimes hit [her] and yell at [her] for no apparent reason.” The Applicant stated that, while the physical abuse began in India, it got worse when they came to the United States, mostly because of the work she had to do. She stated that if she told M-L- she was unable to complete a chore, “he would beat [her],” which is why she “just kept doing the work and tried to keep up with all the tasks.” She stated that she was not allowed to simplify tasks to make the work easier on herself or take shortcuts; “[M-L-] said [she] had to do the work in the order and in the way he determined.” She stated that he pushed her, twisted her wrists, and hit her. She recalled that there was a period of time in 2013 when “[M-L-] would whip [her] with his belt, if [she] said something that angered him or if [she] didn’t complete [her] work.” She indicated that he whipped her on approximately 10 different occasions and “it became one of [her] biggest fears [and that] he would threaten [her] with it because he knew it was the worst for [her].” She further stated that the physical abuse escalated over time and that “in 2016 and 2017, [M-L-] hit [her] almost every day.” She explained that the things M-L- would say to her, along with his actions, were really hurtful, made her cry, and affected her mental state. She indicated that M-L- never helped her with any of the chores, never considered her opinions, and her only option was to follow his rules or they would fight and argue for hours.

The Applicant specifically stated that in 2017 “[her] situation became absolute hell.” She explained that “[M-L-] would constantly abuse [her] and threaten to kill [her] and [her] parents.” She stated that there were times M-L- held her by her neck and said to her that “[he] will kill [her].” She stated that she is “very afraid of [M-L-], he is very violent and has threatened [her] all throughout [their] marriage.” She recounted having called the police twice in 2016 and once in 2017. The incidents in 2016 did not result in an arrest or charges, but the incident in 2017 resulted in M-L- being arrested and charged with domestic assault. However, she explained that she was afraid of calling the police for help because M-L- often told her that “he would get [her] arrested and deported” and that “they would deport [her] without [her] daughter and that [she] would never see her again.” She indicated that she was “terrified to ask for help and for protection because of all the things [M-L- had] told [her] and because of [her] previous failed attempts to ask for help.”⁶ The Applicant further explained that “[M-L-] had threatened [her] in the past, saying that the police take 10-15 minutes to get to [their] apartment, and that he would kill [her] during that 10-15 minute period [and she] believed his threats.” After M-L-’s arrest, the Applicant obtained an order of protection from the court, which has been extended several times. However, she stated that even with the order of protection, M-L- continues to bully and abuse her. She stated that M-L-’s parents and sisters in India threatened her for a long time and told her that if she didn’t drop the charges against M-L-, “they would separate [her] from [her] daughter,” the divorce would be really nasty, and “miserable things would happen to [her] and [her] parents.” She further stated that, although they were divorced in 2019, “his family is still threatening [her] parents back in India that they would kill [her] if they ever saw [her] in person” and she only feels safe in the United States because M-L- does not want to get in trouble for harming her. Finally, she recounted a time after the divorce when M-L- refused to return her daughter to her, making false accusations against her and her new partner, which were investigated and resulted in learning that M-L- was coaching their daughter to make the false accusations. She explains that she continues to live daily life enduring problems caused by M-L-.

⁶ We note that the Applicant was referring to her two calls to police in 2016 that did not result in any charges against M-L-.

B. The Applicant Has Established She Is a Victim of a Severe Form of Trafficking in Persons

The Director acknowledged that the Applicant suffered as a victim of her husband's abuse, and while the abuse involved the means of force, fraud, and coercion, the evidence as presented did not demonstrate the abuse by her husband and his family was for a particular end involving involuntary servitude, debt bondage, peonage, slavery, or a commercial sex act. Specifically, the Director stated that "at the core of severe human trafficking is exploitation, in which one individual is attempting to benefit financially by subjecting another individual to abuse, from which the abuser obtains a financial advantage or benefit," and found that the record did not contain sufficient information to determine whether the Applicant's husband was exploiting her for financial profit through the activities she described. We disagree. In order to demonstrate that she is a victim of a severe form of trafficking, the Applicant need not demonstrate that the trafficker or abuser exploited her for financial gain; only that she was obtained, harbored, and transported by force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery.

An applicant seeking to demonstrate that they were a victim of a severe form of trafficking must show: (1) that they were recruited, harbored, transported, provided, or obtained for labor or services, (2) through the use of force, fraud, or coercion, (3) for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. *See* 22 U.S.C. § 7102(8); 8 C.F.R. § 214.11(a) (defining the term "severe forms of trafficking in persons"). As defined at 8 C.F.R. § 214.11(a), coercion means "threats of serious harm to or physical restraint against any person; any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or the abuse or threatened abuse of the legal process."

The term "involuntary servitude" is defined as:

a condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or a condition of servitude induced by the abuse or threatened abuse of legal process. Involuntary servitude "includes a condition of servitude in which the victim is forced to work for the defendant by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through the law or the legal process. This definition encompasses those cases in which the defendant holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion.

8 C.F.R. § 214.11(a). Servitude is not defined in the Act or the regulations but is commonly understood as "the condition of being a servant or slave," or a prisoner sentenced to forced labor. *Black's Law Dictionary* (B.A. Garner, ed.) (11th ed. 2019).

On appeal, the Applicant asserts that the Director erred and maintains she has established that she was obtained, harbored, and transported by force, fraud, and coercion for the purpose of involuntary servitude.

As acknowledged by the Director, the record reflected that M-L- subjected the Applicant to domestic violence in the form of verbal, emotional, and physical abuse during their relationship. However, human trafficking and domestic violence are not mutually exclusive, and a trafficking situation may arise in the context of a personal relationship where there is domestic violence. Here, the evidence indicated that a trafficking situation arose during the domestic relationship. The Applicant established she was obtained and transported by force, fraud, and coercion, describing how her relationship with M-L- was characterized by physical, verbal, and emotional abuse and that he made her feel as if she had no choice but to come to the United States with him based on that abuse as well as his expressed threats. She additionally described the restrictions M-L- placed on her life and liberty after arriving in the United States through the same physical, verbal, and emotional abuse. The Applicant further demonstrated that M-L-'s intent was to have her serve him (and his family). She explained how her labor was not the sharing of domestic responsibilities, but a means for M-L- to exert control over her. She described being forced to give M-L- all of her dowry money and jewelry, along with any additional money she received from her own parents, and then having to ask him for money in order to purchase mundane things for herself, their daughter, and the household. She detailed M-L-'s anger and abuse when she asked for money to purchase things for herself and the strict rules for purchasing household items, including food. She also described how he intimidated her and brutally treated her on a consistent basis. She detailed how her labor was forced and coerced, recounting being physically harmed, beaten, and threatened if she did not comply with his demands. Accordingly, the record shows that M-L- obtained and transported the Applicant, by force and coercion, and through a "scheme, plan, or pattern . . . caus[ing]" the Applicant to believe that failure to comply with his demands "would result in serious harm or physical restraint," as described in the definition of involuntary servitude under 8 C.F.R. § 214.11(a).

Accordingly, the Applicant has established that she is the victim of a severe form of trafficking in persons, as required by section 101(a)(15)(T)(i)(I) of the Act and as defined in the regulation at 8 C.F.R. § 214.11(a).

C. Other Eligibility Criteria Raised in the Director's Decision

The Director determined that because the Applicant had not established that she was the victim of a severe form of trafficking in persons, she necessarily did not establish that she is physically present in the United States on account of such trafficking, or that she has complied with reasonable requests for assistance in the investigation or prosecution of severe forms of trafficking, pursuant to sections 101(a)(15)(T)(i)(II) and (III) of the Act. Given our determination here that the Applicant was a victim of trafficking, we will remand this matter to the Director to determine in the first instance whether the Applicant has satisfied these and the other remaining eligibility requirements.

III. CONCLUSION

The Applicant has demonstrated that she is the victim of a severe form of trafficking in persons. The matter will be remanded to the Director for consideration of whether the Applicant meets the remaining statutory eligibility criteria for T-1 nonimmigrant status under section 101(a)(15)(T)(i).

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new a decision consistent with the foregoing analysis.