



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

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

In Re: 23382142

Date: DEC. 20, 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. sections 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). The matter is now before us on appeal. On appeal, the Applicant submits a brief and a new declaration asserting her eligibility.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

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 has been a victim of a severe form of trafficking in persons; 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 the trafficking; and would suffer extreme hardship involving unusual and severe harm upon removal from the United States.

The term “severe form of trafficking in persons” is defined in pertinent part 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.” 22 U.S.C. § 7102(11); 8 C.F.R. § 214.11(a).

An applicant may submit any credible, relevant evidence for us to consider; however, we determine, in our sole discretion, the value of that evidence. 8 C.F.R. § 214.11(d)(5).

II. ANALYSIS

The Applicant is a 39-year-old native and citizen of Guatemala who claims to have entered the United States without being admitted or paroled. She filed her T application on the basis that she was the victim of labor trafficking by the individuals who smuggled her into the United States.

The Director denied the T application, finding that the Applicant had not established that she was a victim of a severe form of trafficking in persons. Specifically, the Director determined that while the Applicant had shown that her smugglers had mistreated her, she had not established that she was harbored, recruited, transported, provided, or obtained for the purpose of sex or labor trafficking by the use of fraud or coercion. The Director also concluded that the record did not establish that she was physically present in the United States on account of trafficking, nor that she had complied with reasonable requests for assistance in the investigation or prosecution of acts of severe forms of trafficking in persons.

A. The Applicant's Trafficking Claim

The Applicant's declaration (initial declaration) with her T application describes the following: In 2009, she paid a smuggler to arrange her travel to the United States. When she arrived in the country, she stayed in a safe house for about a week with the smuggler and other migrants. The Applicant still owed half of her payment to the smuggler, who said she would stay at the house and work until she paid her debt. After three days, the smugglers told the Applicant she had to earn her food and cook and clean. She remained in the house until police came to the house and took all of the migrants to jail. The Applicant eventually testified before a judge about the smuggler's identity, as he was present for in the courtroom in person, and she was released from jail.

In a response to a request for evidence (RFE) by the Director, the Applicant submitted an additional declaration (RFE declaration) reiterating that that she and the other women cooked, cleaned, and did laundry for everyone else in the house. One of the other women had been in the house for more than six months and the smugglers refused to let her go. The Applicant described staying in a locked room in the safe house with two other women. She was not permitted to go to the bathroom or leave her room at her leisure, nor was she permitted to access her belongings or use the phone. The smugglers told the Applicant and the women that if they tried to jump from the room's window, they would fall and die. They also told the Applicant and the other women that if they did not do as they were told, they would be taken to immigration authorities and deported. On one occasion, the Applicant refused to clean, and one of the smugglers, who was armed, yelled that she would suffer the consequences and not get any food, so she continued to cook. The Applicant contended that she did not believe the smugglers were holding her in order to extort more money because they did not demand any from her. When she arrived at the house, the Applicant was told that after she paid the rest of the money she owed, she would be released.

On appeal, the Applicant submits an additional declaration (appeal declaration), new evidence regarding the smugglers' prosecution, copies of previously-submitted evidence, and brief in support of her claim that she is a victim of a severe form of trafficking in persons. She contends in the appeal declaration that the smugglers did not let her leave the safe house and told her she had to earn food by cooking, cleaning, and doing what they told her to do. The Applicant further elaborates that after she

arrived at the safe house, she called her mother to transfer the rest of the money the Applicant owed. The Applicant therefore did not believe she was being held captive to be extorted for more money.

B. The Applicant Is Not the Victim of a Severe Form of Trafficking in Persons

Upon de novo review, we agree with the Director's determination that the Applicant did not establish that she is the victim of a severe form of trafficking in persons. As relevant in this case, applicants seeking to demonstrate that they were victims of a severe form of trafficking must show: (1) that they were recruited, harbored, transported, provided, or obtained for their 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. 22 U.S.C. § 7102(11); see also 8 C.F.R. § 214.11(a) (defining the term "severe forms of trafficking in persons"). Coercion is defined in pertinent part as "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 . . . any person; or the abuse or threatened abuse of the legal process." 8 C.F.R. § 214.11(a).

As used in section 101(a)(15)(T)(i) of the Act, 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). The term peonage is defined as "a status or condition of involuntary servitude based upon real or alleged indebtedness." *Id.* 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). The evidence does not show that the smugglers obtained, harbored, or transported the Applicant for the purpose of subjecting her to a condition of servitude, the underlying prerequisite to establishing involuntary servitude and peonage.

The record establishes that the smugglers the Applicant harbored her using force and coercion, as required under the definition of trafficking at 8 C.F.R. § 214.11(a). The record shows that the Applicant entered into a voluntary agreement under which the smugglers she hired would transport her to the United States. However, the evidence also indicates that after she arrived in the United States, the smugglers used force to harbor the Applicant. Her statements indicate that armed smugglers threatened her to keep her from leaving the safe house. Accordingly, the record shows that the Applicant was harbored using "threats of serious harm" and "physical restraint," as required by the definition of coercion at 8 C.F.R. § 214.11(a).

However, a preponderance of the evidence does not demonstrate that the Applicant was the victim of trafficking, as the record does not establish that the smugglers harbored her for the purpose of subjecting

her to involuntary servitude, as she claims. We acknowledge the Applicant's assertions that she and other women were kept at the safe house against their will and were forced to cook and clean for others. However, she has not provided sufficient probative evidence to demonstrate the smugglers harbored her for the specific purpose of subjecting her to involuntary servitude, rather than for the purpose of carrying out their smuggling operation or for the purpose of paying off the Applicant's debt. Furthermore, the Applicant's statements do not contain consistent, detailed accounts of her arrangements and interactions with the smugglers. Both the initial declaration and RFE declaration indicated that the smuggler told her that she still owed half her payment and that she would work at the house until she paid her debt. In contrast, on appeal, the Applicant states that she still had to work after she paid her agreed-upon fee. Without clarity surrounding these details, we are unable to ascertain the nature of the arrangements, such as if the value of the Applicant's labor was applied to her debt. Therefore, the evidence provided by the Applicant is not sufficient to show the purpose for which the smugglers harbored her. As the Applicant has not established that her smugglers harbored her for the purpose of subjecting her to involuntary servitude during her smuggling, as she asserts, she has not established that she is a victim of a severe form of trafficking, in the form of labor trafficking, as defined at 8 C.F.R. § 214.11(a).

C. Additional Grounds of Eligibility

On appeal, the Applicant contends that she satisfies the remaining eligibility requirements for T nonimmigrant status because she is physically present on account of trafficking, has fully cooperated with law enforcement, and will suffer severe and unusual harm if not permitted to remain in the United States. Because the Applicant has not established that she is the victim of a severe form of trafficking in persons, she is regardless ineligible for T nonimmigrant status. Moreover, given our finding that the Applicant did not demonstrate that she is the victim of trafficking, she necessarily did not establish that she is physically present in the United States on account of such trafficking and that she complied with any reasonable request for assistance in the investigation or prosecution of the trafficking as sections 101(a)(15)(T)(i)(II) and (III) requires. Regardless, as our basis for denial is dispositive of the Applicant's appeal, we decline to reach and hereby reserve the Applicant's additional appellate arguments regarding the remaining eligibility criteria for T nonimmigrant classification, including physical presence in the United States on account of trafficking and compliance with any reasonable requests for assistance in the investigation or prosecution of the trafficking. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

We recognize the Applicant's claim that she suffered terrible conditions while being smuggled into the United States. Nevertheless, she has not established that she was a victim of a severe form of trafficking during the course of her smuggling. Accordingly, the Applicant is not eligible for T nonimmigrant classification.

ORDER: The appeal is dismissed.