



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

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

In Re: 18277819

Date: FEB. 8, 2022

Appeal of Vermont Service Center Decision

Form I-914, Applicant 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). On appeal, the Applicant submits a brief asserting her eligibility.

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). 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 have 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 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) (2018).

The term "severe form of trafficking in persons" is defined, in 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." 8 C.F.R. § 214.11(a).¹

The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 18 U.S.C. § 1361; 8 C.F.R. § 214.11(d)(5); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). An applicant may submit any credible evidence for us to consider

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.* Sex trafficking means the "recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act." *Id.* Although the Applicant asserts that she was sexually assaulted by her alleged trafficker, she does not argue and the record lacks probative evidence showing that she is the victim of sex trafficking.

in our *de novo* review; however, we determine, in our sole discretion, the weight to give that evidence. 8 C.F.R. § 214.11(d)(5).

II. ANALYSIS

The Applicant is a citizen of Colombia who last entered the United States in 2015 when she was admitted on a nonimmigrant visitor's visa and has not left since. She filed her T application in November 2019 on the basis that she was transported, recruited, and obtained through fraud and coercion for the purpose of involuntary servitude by the individual who arranged for her to come to the United States. The Director denied the T application concluding that the record did not establish that the Applicant was a victim of a severe form of trafficking in persons and therefore necessarily did not establish that she is physically present in the United States on account of such trafficking and had complied with any reasonable request for assistance in the investigation or prosecution of the acts of trafficking. The Director also noted that the Applicant is ineligible for T nonimmigrant status because she is inadmissible to the United States, and the record showed that the grounds of inadmissibility had not been waived. On appeal, the Applicant has not overcome the Director's determination that she did not establish she was a victim of trafficking.²

A. The Applicant's Trafficking Claim

In her initial written statements below, the Applicant indicated that her cousin, L-, told her that his former spouse, R-B-, used to do paperwork for people to go to the United States. The Applicant said she then contacted R-B-, who lived in the United States, on social media and asked for her assistance to go to the United States. The Applicant stated that R-B- told her she would come to Colombia to meet her and initiate visa procedures for the Applicant's travel to the United States. She indicated that R-B- told her to not ask questions and limit herself to what she told the Applicant to do, and she assured the Applicant that she had assisted many individuals in entering the United States.

The Applicant indicated that when R-B- came to Colombia in May 2015, she introduced the Applicant to D-G-, the man that would help her obtain her visa. The Applicant also recalled that R-B- told D-G- that the Applicant was her girlfriend, which terrified her because R-B- never told her she was a lesbian. The Applicant indicated that R-B- told her she said this to D-G- so he would help the Applicant. She explained that they stayed in D-G-'s apartment and the plan was for the Applicant to marry him and obtain a tourist visa since D-G- already had a visa. She also recalled that R-B- visited the Applicant's home and witnessed first-hand the Applicant's father's abusive behavior towards her mother and that she knew from the Applicant about the physical and verbal abuse by her father she suffered growing up. She stated that R-B- told the Applicant she would "take away the trauma" caused by her father and get her out of "that hell."

The Applicant recalled that after R-B- returned to the United States, she continued to instruct her from there on the necessary steps to obtain her visa, including living with D-G-, acting like a couple and

² Because our finding here that the Applicant did not establish that she is a victim of trafficking is dispositive of her appeal, we decline to reach and hereby reserve the Applicant's appellate arguments regarding the other grounds for the Director's denial. 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).

eventually marrying him. She explained that shortly after marrying D-G-, she attended her interview at the consulate and was approved for a visa. In July 2015, the Applicant and D-G- traveled to the United States. The Applicant explained that with the assistance of an attorney R-B- had hired in Colombia, she and D-G- were legally divorced prior to entering the United States. After arriving in the United States, the Applicant stated that she lived with R-B- who told her that she needed to marry another man, R-L-, to obtain legal status in the United States as his spouse when he filed his residency application. The Applicant said that R-B- told her she had to pay R-L- \$15,000. She indicated that R-B- paid R-L- to do his residency paperwork and took him to a paralegal to do his “documents” so he and the Applicant could marry. The Applicant also explained that she believed R-B- was legally working on her immigration matters since she utilized notaries and worked with individuals she referred to as “paralegals.”

The Applicant stated that a month after arriving in the United States, she began working for a family in the same condominium where R-B- and R-L- worked for other employers. She stated R-B- found additional jobs for her providing cleaning services and that she worked seven days a week from early in the morning until late at night. She said that R-B- made her work all the time because she owed her money for bringing her to the United States. The Applicant explained that she earned \$480 per week, in addition to the money she made working the cleaning jobs with R-B-. She indicated that she gave all her earnings to R-B-, who told her the money was to pay for the “formalities and paperwork of [her] legal status.” The Applicant also explained that R-B- told her she had to pay an additional \$3,000 for bringing her to the United States and that she would take the Applicant’s earnings for the \$3,000 owed and for arranging the Applicant’s marriage. The Applicant said R-B- would not leave her alone, she would take her and pick her up from work, and she told her not to speak to or ask questions of anyone because she knew the immigration procedures.

The Applicant stated that one night in [] 2015, R-B- gave her alcohol, and afterwards, the Applicant was unable to remember anything else from that evening. She stated that she realized R-B- had sexually abused her when she woke up naked the next day with a headache, nausea, pain in her entire body and severe pain in private areas. The Applicant stated that when R-B- called later, she asked her about what happened but R-B- told her they would talk somewhere else. The Applicant said R-B- took her to a motel later to talk and told her not to worry and that she should “stop crying and enjoy” it. She recalled that R-B- then threatened to tell her father about “everything” if the Applicant told anyone about the assault and that the Applicant would go to jail. The Applicant stated R-B- instigated another sexual encounter although the Applicant was crying and refused to perform certain sex acts. She indicated that R-B- “released” her after 15 minutes.

The Applicant explained that she was scared and traumatized, had no money, and did not know who to ask for help after this incident. The Applicant stated that R-B- sometime afterwards told her that they needed to move into a new apartment with R-L- to complete the immigration process and they did so in October 2015. The Applicant also recalled a day when R-B- became furious that R-L- drove her home from work and she threw the Applicant hard on the bed, shouted at her that the Applicant was hers and no one else’s, and threw herself on the Applicant before sexually assaulting her. The Applicant said she managed to get away to the bathroom but R-B- followed, yelling at her that her she was useless and that she was going to call the police and declare the Applicant mentally ill so they take her to jail. R-B- also said she would buy a ticket to send the Applicant back to Colombia and to stop screaming and crying. The Applicant said she fled the apartment when R-L- arrived.

The Applicant explained that she was frightened but her Church assisted her, and she eventually was taken in by a member of the Church. She stated that she continued to work in her previous job and was able to keep all her earnings. She said she avoided R-B- at all costs but R-B- threatened her “by text message and personally” and told her that if she did not pay her back for all the money “she had spent on” the Applicant, she would kill herself and Applicant. The Applicant explained that she changed her job and phone number to get away from R-B-. She also said that when she told her cousin, R-B-’s former spouse, about all that had happened, he warned her to stay away from R-B- because she had sent people to kill him in Colombia. She further stated that R-B- also called a cousin and aunt of the Applicant’s and told them the Applicant was behaving badly and acting rebellious. The Applicant explained that she tried to completely cut ties from R-B-, and her pastor encouraged her to report the sexual abuse to the police, which she did in [] 2016. She also explained that she underwent counseling sessions for six months.

The record before the Director also included, among other evidence: letters of support; several summary forms of the Applicant’s counseling sessions at the Trauma Resolution Center; an incident report from the [] Police Department of a sexual battery by R-B- against the Applicant that included a narrative consistent with the accounts in the Applicant’s statements in these proceedings; a letter from D-G- corroborating the Applicant’s claim; and, court documents regarding a request for a temporary injunction by the Applicant against R-B-.

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

The Director concluded that the evidence did not establish that the Applicant was the victim of a severe form of trafficking in persons. The Applicant contends on appeal that the Director disregarded evidence in the record and misapplied the law to the facts, which she maintains shows that R-B-, who arranged for her to come to the United States and paid her smuggling fees, transported, recruited, obtained, and harbored her through the use of fraud and coercion for the purpose of subjecting her to involuntary servitude. Our review of the record does not support the Applicant’s assertions on appeal.

As an initial matter, the Director determined that the Applicant was not credible based in part on purported discrepancies in her statements.³ Specifically, the Director noted that the Applicant’s 2019 statement indicated she gave all her earnings directly to R-B-, but in an addendum to her T application, the Applicant stated that R-B- received the Applicant’s wages directly from the employers. On appeal, the Applicant explains that she received her wages directly from her day job and gave them to R-B-, but that R-B- also received direct payments of the Applicant’s wages for the other jobs R-B- arranged for the Applicant to work. Regardless, we find no material inconsistency between her 2019 statement that she “used to give to [R-B-] all the money” she earned and her assertion in the T application addendum that R-B- “used to receive the payment for [the Applicant’s] work directly.” The Director also found that the Applicant’s 2019 statement inconsistently stated that R-B- would bring her to and from work but then indicated later that another individual, R-L-, brought the Applicant home from work. As the Applicant explains on appeal, these assertions are not inherently inconsistent. The

³ In determining that the Applicant’s statements were “unreliable and not credible,” the Director also cited the Applicant’s willful participation in a fraudulent marriage and her misrepresentation of material facts in order to procure an immigration benefit. The Applicant does not specifically address this finding on appeal. We do not reach this issue here given our determination that regardless of the Applicant’s credibility, the record lacks sufficient probative evidence demonstrating that she is the victim of trafficking.

Applicant did not specify that R-B- took her to and from work on each and every occasion and her statement indicated that R-L- brought her home from work on one occasion after which the R-B- became angry and assaulted her. Accordingly, the Director erred in relying on these purported discrepancies to find the Applicant not credible.

Nevertheless, the record does not establish that the Applicant was the victim of a severe form of trafficking in persons. Applicants seeking to demonstrate that they are victims of labor 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); 8 C.F.R. § 214.11(a) (defining the term “severe forms of trafficking in persons”). Coercion means, in relevant part, “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” 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.

The Applicant asserts on appeal that R-B- recruited, transported, obtained, and later harbored her in her apartment for the purpose of subjecting her to, and that R-B- actually subjected her to, involuntary servitude when she made the Applicant perform services and labor in jobs she arranged for the Applicant and then took all of the Applicant’s wages between July and October 2015 as payment for her debt.

The Applicant has not demonstrated that R-B- transported, recruited, harbored, or obtained her for the purpose of subjecting her, or that she subjected the Applicant, to a condition of servitude, the underlying prerequisite to establishing involuntary servitude, as she maintains on appeal. 8 C.F.R. § 214.11(a) (defining involuntary servitude). Counsel for the Applicant asserts on appeal that R-B- “exerted coercive pressure” on the Applicant, “obligating” her to work and give all her wages to R-B-. However, the Applicant’s statements and other relevant evidence do not support this assertion. In her statements, the Applicant stated that she worked as a nanny and R-B- found her additional work cleaning houses so she worked seven days a week from early in the morning until late at night. The Applicant explained that R-B- took all her earnings from her various jobs. She also asserted generally that R-B- would not leave her alone, took her to and from work, and she would tell her not to speak to anyone. However, the Applicant did not assert that R-B- used force or threatened her in any way to make her work these jobs or to work seven days a week for long hours. The Applicant also stated that R-B- took all the wages she made, but she also indicated that the Applicant’s earnings were to

reimburse R-B- for the \$3,000 she spent to bring the Applicant to the United States and for the costs of helping the Applicant obtain legal status. She did not assert that R-B- used force or coercion to induce her to give up her wages. We acknowledge the Applicant's assertion that R-B- sexually assaulted her on at least two occasions, as reflected in her 2019 statement, the 2016 police incident report after the Applicant reported the assault, and in the therapy assessment notes the Applicant submitted. However, both the statement and police report indicate that R-B- sexually and physically assaulted her on the second occasion out of jealousy over her interaction with another individual. They do not show that R-B- sexually abused the Applicant on either occasion with the intent of placing her in a condition of servitude. Accordingly, the record as a whole does not establish by a preponderance of the evidence that R-B- induced her to work at any of the jobs R-B- arranged for her or otherwise placed the Applicant in a condition of servitude using or threatening "physical restraint or physical injury" or by placing her "in fear of such physical restraint or injury," consistent with involuntary servitude. *Id.*

The record also does not establish that R-B- abused or threatened abuse of legal process for the purpose of placing the Applicant in a condition of servitude. *Id.* Counsel asserts on appeal that R-B- "brainwashed" the Applicant to believe that police and immigration were looking for her because she was mentally ill and was in the United States illegally, which made her afraid of seeking help. We acknowledge the Applicant's assertion in her written statement that R-B- threatened to call the police and declare her mentally ill so that she would be placed in jail; however, in her statement, she explained that R-B- made this threat to make sure the Applicant did not report her to the police after R-B- sexually assaulted the Applicant. The record, including the Applicant's statements, her therapy assessment notes, and the narrative from the police report in her claim against R-B-, do not reflect that R-B- ever threatened to call the police or have her deported in order to induce her to work, give her wages to R-B-, or otherwise subject the Applicant to a condition of servitude.

The Applicant also asserts that R-B- had a "scheme, plan, or pattern" in which R-B- induced her to incur debt by paying the Applicant's smuggling and immigration fees so that she would be indebted to R-B- and that R-B- then used the Applicant's indebtedness to subject her to involuntary servitude, making her believe that she had to work to pay back the loan. *See* 8 C.F.R. § 214.11(a) (involuntary servitude). However, the record indicates that it was the Applicant who contacted R-B- via social media, solicited her assistance in coming to the United States, and requested and accepted R-B-'s financial help. Her statements also reflect that she voluntarily consented to the plans R-B- made to arrange fraudulent marriages for the Applicant in order to obtain a tourist visa for her to the United States and later to obtain legal status here. Apart from her assertion that R-B- told her in the United States that she had to work to pay her back the \$3,000 she spent to bring the Applicant here, the Applicant provided no substantive information regarding the terms of her financial agreement with R-B- for the latter's services, including the total costs for the fees, or to otherwise establish that R-B- induced her to incur debt by paying for her smuggling and immigration related costs as she claims. We recognize that R-B- took all her earnings, but the Applicant's statements lack probative information demonstrating that R-B- had a scheme, plan, or pattern intended to make the Applicant believe that she would suffer serious harm or physical restraint if she did not perform labor or provide her earnings to R-B-. The Applicant did make a general assertion that R-B- threatened to harm her if she did not pay her back. However, the record shows that this happened after the Applicant escaped in October 2015 and that R-B-'s actions were motivated by a desire to have the Applicant repay the

outstanding debt she believed was owed to her and were not part of a scheme, plan, or pattern to induce the Applicant into a condition of servitude.

Counsel asserts on appeal that R-B- threatened to tell the Applicant's family in Colombia that she was a lesbian to induce her into a condition of involuntary servitude as it would bring her great dishonor since she is from a Christian family. We acknowledge that the Applicant's written statement briefly indicates that R-B- threatened to call her father to tell him "everything" after R-B- sexually assaulted her the first time. However, the Applicant also explained that R-B- made this statement to prevent the Applicant from telling anybody about the sexual assault. In addition, contrary to counsel's assertions, the Applicant's statements do not show that the specific threat was to tell her father or family that the Applicant is a lesbian. Rather, her statements indicate only that R-B- said she would tell them "everything." The record, including her statements, does not contain probative evidence that R-B- threatened to call the Applicant's father as a coercive means to induce her to work, give her wages to R-B-, or otherwise subject the Applicant to a condition of servitude.

The Petitioner also submitted a letter from D-G-, the man that R-B- had the Applicant marry in Colombia, in order for the Applicant to obtain a visitor visa to enter the United States. The letter confirms the statements made by the Applicant regarding their relationship and how they entered into a marriage for immigration purposes and pursuant to the direction of R-B-. In addition, the Petitioner submitted a letter from a member of her church that took her in when the Applicant decided she no longer wanted to live with R-B-. Further, the Petitioner submitted a letter from her pastor confirming the Applicant's statements regarding her being sexually abused by R-B-. These supporting letters do not establish that the Applicant was trafficked by R-B-, particularly in the absence of probative testimony and evidence from the Applicant.

We acknowledge the Applicant was the unfortunate victim of sexual assault and harassment by R-B- and suffered serious sexual, physical, and psychological abuse. However, the preponderance of the evidence does not establish that R-B- recruited, transported, obtained, or harbored her for labor and services for the purpose of subjecting her to involuntary servitude, as asserted. She, therefore, has not established that she is a victim of trafficking in persons, as required by section 101(a)(15)(T)(i)(I) of the Act. Accordingly, she also necessarily did not establish that she is physically present in the United States on account of such trafficking and complied with any reasonable request for assistance in the investigation or prosecution of the trafficking. Consequently, she is ineligible for nonimmigrant classification under section 101(a)(15)(T) of the Act.

ORDER: The appeal is dismissed.