



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

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

In Re: 19260071

Date: FEB. 10, 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) and dismissed a subsequent motion to reopen and reconsider. The matter is now before us on appeal. On appeal, the Applicant submits additional evidence and asserts 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 remand this matter for further proceedings consistent with this 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 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.” 8 C.F.R. § 214.11(a) (2018).

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 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, a native and citizen of Mexico, entered the United States without admission or parole around 2003 or 2004 and has not left the country since. In December 2018, the Applicant filed the T application on the basis that she was recruited and transported through force, fraud, and coercion for involuntary servitude and slavery. 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. In the subsequent decision on motion, the Director concluded that the Applicant had not overcome the prior determination.

A. The Applicant's Trafficking Claim

In her written statements below, the Applicant explained that she met A-E-,¹ who lived most of the time in Philadelphia at the time, when he returned to Mexico on vacation. She said she caught his eye and he tried to "make [her] be with him" and threatened and followed her. Although A-E- did not know the Applicant for a long time, he asked her father for permission to marry her, and her father accepted his proposition. The Applicant said she did not want to marry A-E- but she was frightened to go against her father's wishes, and she was very young and did not know how to stop the marriage. At the time of her marriage, the Applicant stated that she was 16 years old and A-E- was 30 years old. She indicated that A-E- obtained a forged birth certificate so that she appeared to be 18 years of age, which was the age on their marriage certificate. She said she moved in with A-E- to his mother's home and after a few months, he returned to the United States. The Applicant explained that A-E- paid and organized for a friend to smuggle her to the United States.

The Applicant stated A-E- was emotionally and physically abusive during the entire eight years they lived together. She indicated that he raped her many times, never let her leave the home unless he was with her, and did not allow her to have friends or her own cell phone. The Applicant said that prior to having children, A-E- would force her to accompany him to his job because he did not want her out of his sight. During those times, she said he would make her sit all day and watch him work. In her statement on motion, she also said that sometimes, he would make her work and assist him with his job and that A-E- probably got paid for the jobs she would work but she did not receive any of the earnings. The Applicant explained that once her child was born, A-E- no longer took her to work but instead made her stay at home. She said she was trapped inside of her home and was responsible for the cooking, cleaning, and care of her children. The Applicant stated she had only occasional contact with her family because A-D- would get angry when she did. She also said that A-E- did not give her any money to purchase things that she needed like clothes, shoes, or feminine products.

In her statements, the Applicant explained that her daily life with A-E- included constant cooking, cleaning, and emotional and physical abuse. She said she would wake up at six in the morning and start cooking breakfast for A-E-. She explained he did not want typical breakfast food but instead

¹ Initials used to protect individuals' privacy.

wanted a heartier meal. She said that sometimes he decided he did not want the food she prepared and would throw the plate to the floor and force her to make a new breakfast. As soon as he left for work, the Applicant said she would start cleaning the entire house. She said she would wash clothes, fold and put away the laundry, clean the bathrooms and house, and take care of her children. She indicated that A-E- would come home and tell her the house was not clean enough. She recalled that A-E- would sometimes make her handwash his work clothes even if they were already clean. The Applicant stated that if she ever questioned A-E-, he punched her, slapped her, and grabbed her hair.

The Applicant recalled A-E- would call multiple times throughout the day to check in on her and insult her. She said he would remind her that she had to cook, clean, and wash all the clothes. She said that if she did not answer his calls, he would come home to check on her and yell and hit her. She also explained that A-E- would call her from work to tell her the food she had to prepare for him and even though he told her exactly what he wanted, he would often question her as to why she cooked that meal. She said that when that happened, she had to cook another meal. The Applicant explained that A-E- would order her to bring his water, bring his juice, bring his beer and yell at her. She recalled that the cooking and cleaning took hours and she also needed to take care of her children. She stated she would work 17 hours to complete all the tasks. The Applicant recalled that when A-E- invited friends, she was required to clean, cook, and bring them drinks as well. She said A-E- made her dance for his friends as entertainment. She explained that nights where A-E- invited friends, she worked almost 24 hours because she had to stay awake to serve his friends.

The Applicant stated that during the marriage, A-E- abused her and threatened to kill her or harm her children. She said she was afraid for her and her children's lives. She recalled one time when A-E- was attempting to force her to have sex with him and her young son told him to leave her alone, and A-E- threw him onto the floor and threw a chair at him. She explained A-E- also used the children to control her and told her if she called the police, he would take the children. The Applicant said that A-E- also kept a gun in the closet and used drugs and alcohol. She indicated he would tell her that she was his property and she owed him for paying for her and bringing her to the United States. She said he would tell her she had to pay him back. She recalled she was too scared even to look out the window because if A-E- was drinking outside with his friends and saw her looking outside, he would yell at her saying "what are you doing, you should be cleaning and cooking."

The Applicant explained that in 2011 she was at the health clinic for her children when she noticed a domestic violence hotline poster that she took it home with her. She said one day she thought about committing suicide and grabbed a knife but when her child asked her what she was doing, she stopped herself. That night, A-E- hit her in the face and the next day she called the number from the domestic violence poster. Through the encouragement of that counselor, she called the police and also obtained an order of protection against A-E-. Once she had the order of protection, she called the police and they took A-E- away.

The Applicant said that even after the police took A-E-, she was frightened that he would hurt her or her family. She said A-E- was able to contact her and threatened to kill her, and even though A-E- returned to Mexico, he still threatens her family and tells them that he will kill the Applicant. She explained that her parents moved to another state because they heard he was looking for them. The Applicant stated that she is too scared to return to Mexico for fear that A-E- will find her and her children and harm them.

In addition to the Applicant's statements, the remaining relevant evidence in the record before the Director included, among other things: a copy of the order of protection against A-E-, the medical reports of the Applicant's son; several articles regarding trafficking and effects of trauma; country conditions of Mexico; and letters of support.

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

On appeal, the Applicant maintains that the Director erred in concluding that she is not a victim of trafficking by A-E-. Our *de novo* review of the record demonstrates that the Applicant was the victim of labor trafficking, as defined at 8 C.F.R. § 214.11(a).

Applicants seeking to demonstrate that they are 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); 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 evidence establishes that the Applicant's domestic partner, A-E-, transported and harbored her through the use of force and coercion. The Applicant's statements indicate that A-E- used a pattern of physical violence, intimidation, controlling behavior, and threats of physical harm against her to force her to come to the United States and to stay with him thereafter. The Applicant's statements show that A-E- restricted her movements in the United States and limited her contact with the outside world by not allowing her to go outside anywhere without him; by constantly calling her throughout the day to check on her; not allowing her to work outside the home, own a cellphone, have friends, or communicate freely with her family; and by physically abusing her and threatening to kill her or take her children away. The Applicant's statements also reflect that she reasonably believed that A-E- would carry out his threats if she did not remain with him and comply with his demands, as she described past incidents in which A-E- physically abused her and her children and sexually assaulted her, even in front of their minor children, and he kept a gun in the home. Accordingly, the record sufficiently demonstrates that A-E- transported and harbored the Applicant and did so through use of force and through "threats of serious harm" and a "scheme, plan, or pattern . . . caus[ing]" the Applicant to believe that failure to comply with his demands "would result in serious harm . . .," as described in the definition of coercion under 8 C.F.R. § 214.11(a).

Nevertheless, the Director determined that the record did not demonstrate that she was the victim of trafficking because the record showed that A-E- subjected her to domestic violence but did not establish that he subjected or intended to subject her to involuntary servitude. As discussed in this decision, our review of the record demonstrates that A-E- harbored the Applicant during their domestic relationship for the purpose of subjecting her to involuntary servitude, and we will therefore withdraw the Director's decision.

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). Slavery is defined as a “situation in which one person has absolute power over the life, fortune, and liberty of another.” *Id.*

As the Director noted, the evidence demonstrates that A-E- subjected the Applicant to domestic violence, including physical, psychological, and sexual violence, 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. In this case, the Director acknowledged that A-E- forced the Applicant to work at home by cleaning, cooking, and taking care of the children, as well as help him paint at his jobsites on some occasions, but still concluded that his actions only evidenced his attempts to control the Applicant as part of the cycle of domestic violence in their relationship.

Contrary to the Director’s determination, a preponderance of the evidence indicates that a trafficking situation did in fact arise during the Applicant’s domestic relationship with A-E-, beginning when he transported the Applicant to the United States and thereafter harbored her for the purpose of subjecting her to involuntary servitude, and in fact, subjected her to involuntary servitude. The Applicant’s statements reflect that A-E- told her that she was his “property” and that she “owed” him for bringing her to the United States and had to “pay” him back. She indicated that he did not allow her to work and instead, ordered her to do things for him such as cook and serve him and clean the home and she often spent 17 hours a day doing household labor per his instructions. She also described in probative detail incidents demonstrating how A-E- used physical and psychological abuse to control and coerce her into performing labor in a condition of servitude. The Applicant stated that A-E- regularly physically assaulted her if she did not perform household chores a certain way, including grabbing her hair, threatening to kill her, or punching, beating, slapping her, and he then made her do the chore again. She explained that A-E- told her that she “should be cleaning and cooking” when saw her looking outside where A-E- and his friends were drinking. A-E- also called her repeatedly during the day, checking in on her, and she indicated that if she did not answer him, he left work to come home to see what she was doing and then started yelling and hitting her. The Applicant also explained that three or four times a week, A-E- made her cook and serve his friends and forced her to dance for them as entertainment and if she did not do as he told, he became very angry and physically abused her, punching and kicking her. The Applicant’s statements further indicate that she was not free to leave and that A-E- restricted her freedom of movement by calling her at home multiple times a day, not

giving her any money or necessities, not allowing her to work, and limiting her ability to leave the house and her interactions with the outside world. Accordingly, the record, including the Applicant's statements, demonstrates that A-E- harbored her for the purpose of subjecting her to a condition of servitude and that he actually subjected her to a condition of servitude by forcing her to perform labor in the house by cooking, cleaning and serving him through the use or threats of "physical restraint [and] physical injury" and by "means of [a] scheme, plan, or pattern intended to cause [her] to believe that" if she did not enter into or continue in such condition, she "would suffer serious harm," as described in the definition of involuntary servitude at 8 C.F.R. § 214.11(a).

In denying the Applicant's motion on her T application, the Director also concluded that the Applicant did not provide a consistent and detailed account of her victimization, citing two inconsistencies between her statements. Specifically, the Director noted that the Applicant stated A-E- forced the Applicant to marry her but also stated that A-E- asked her father for permission to marry her and her father agreed. The Director noted that the Applicant indicated she did not want to get married but was afraid to go against her father. On appeal, the Applicant maintains that both statements regarding her marriage are true and accurate and asserts that although A-E- asked her father for permission to marry, she was forced to marry him and was also afraid to go against her father, and A-E- threatened and followed her as she had indicated in her initial statement. Regardless, while our review reflects that the Applicant's initial statement provided more details regarding the circumstances of her marriage to A-E-, both her statements before the Director consistently assert that she was forced to marry A-E-. The Director also stated that the Applicant's 2018 statement indicated that prior to having children, her husband used to force her to go to work with him and just sit there so he could keep her in his sight, but in her statement on motion, the Applicant stated that A-E- sometimes forced her to clean offices or houses or paint houses with him. In her statement on appeal, the Applicant explains that her previous attorney did not speak Spanish or ask for specific details as her current attorney later did and therefore did not get her full story. The Applicant also states that the statements are both true and accurate because while A-E- did force her to go to his workplaces and have her sit there, sometimes he also made her work. In addition, she submits the declaration of her current attorney contesting the Director's finding the Applicant appeared to have "embellished" her claim and explaining that the additional details included in the Applicant's statement on motion were obtained in response to a line of more detailed questions in preparation for filing the motion. We find the Applicant's explanations on appeal reasonable and conclude that the referenced discrepancies are not sufficiently material to discredit the Applicant's otherwise detailed, probative testimony and other evidence demonstrating that she was the victim of trafficking by A-E-.

As stated, the record indicates that A-E- subjected the Applicant to domestic violence throughout their relationship, and the Applicant suffered serious physical and emotional harm at his hands as a result. The record also establishes that during the course of that relationship, a trafficking situation arose in which A-E- used force and coercion, in the form of physical violence, threats of physical harm, and the controlling and abusive nature of their relationship, to harbor the Applicant for the purpose of subjecting her to involuntary servitude. 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. Remaining Eligibility Criteria

The Director concluded that because the Applicant had not established that she was the victim of a severe form of trafficking in persons, she necessarily did not demonstrate that she is physically present in the United States on account of such trafficking or complied with reasonable requests for assistance in the investigation or prosecution of the trafficking, as sections 101(a)(15)(T)(i)(II) and (III) of the Act require. As we have determined here that the record demonstrates that the Applicant is a victim of trafficking, we will remand this matter to consider in the first instance whether the record demonstrates that she satisfies these and the remaining eligibility criteria for T nonimmigrant status.

III. CONCLUSION

The Applicant has overcome the Director's ground for denial, as she has demonstrated that she is a victim of a severe form of trafficking in persons as required by the Act. We will therefore remand this matter to the Director for a determination of whether the Applicant meets the remaining eligibility criteria for T nonimmigrant classification under section 101(a)(15)(T) of the Act.

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