



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

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

In Re: 15857880

Date: FEB. 11, 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 he was a victim of a severe form of trafficking in persons and that, as a result of this determination, he also had not established he was physically present in the United States on account of the claimed trafficking and had complied with reasonable requests for assistance in the investigation or prosecution of the trafficking. The Director further noted that the Applicant was inadmissible to the United States, and the record indicates that the applicable grounds of inadmissibility against him were not waived. On appeal, the Applicant submits a brief and additional evidence asserting his 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 T-1 nonimmigrants 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.

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), and includes "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 burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.11(d)(5); *Matter of Chawathe*, 25

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 claim that he is a victim of sex trafficking.

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 Honduras, entered the United States in 2002 without inspection, admission, or parole. In June 2019, the Applicant filed the instant T application asserting that he was the victim of labor trafficking by the smugglers who facilitated his unlawful entry into the United States.

A. The Applicant's Trafficking Claim

The Applicant did not submit a personal statement initially with the filing of his T application. However, in response to the Director's request for evidence (RFE), he submitted a statement in which he explained that he entered the United States without inspection in 2002, at the age of 18 years, after his mother arranged for him to be smuggled into the United States. According to the Applicant, his first attempt was unsuccessful, and he was returned to Mexico by the U.S. border agents. He stated that when he returned to Mexico, the smugglers picked him up and took him to a trailer home where he stayed for four days. He indicated that there were two armed individuals – one inside and one outside – watching them constantly. He reported being very scared and could not eat because of his "nerves."

The Applicant stated that after four days being in the trailer home, he and another male were driven to a shopping center parking lot where the smugglers pointed to a two-door Toyota Corolla and told them to drive it through the checkpoint and go to the place indicated on the map that was in the glove compartment. He stated that the smuggler told him "don't stop and don't check the trunk." The Applicant stated that he did as he was told, and they were not stopped at the checkpoint. He stated that they arrived at a motel in [REDACTED] Texas per the map that was in the glove compartment. He indicated that there were two trucks waiting for them, and when they arrived, they "grabbed [him] and locked [him] in a motel room" but he could see that they searched the trunk and exchanged "what appeared to be money." He reported that the man who drove with him in the car "thought [they] had brought drugs in the car." The Applicant stated that one of the smugglers had a gun at his waist. He indicated that the smugglers talked to his mother the same night and asked for more money in addition to the \$6,000 that was agreed upon initially because the last trip cost them more. The Applicant also stated that later that night at the motel, he felt someone "touching [his] butt" while he was still sleeping but when another person in the room screamed, he woke up fully to find one of the smugglers on him. He indicated that the smuggler was drunk and told them to shut up or that he was going to "shoot [them] in their mouths," and then he "turned away." The Applicant stated that the next day his mother paid the smugglers the additional money, and he was driven to New Jersey.

The record below contains a telephone call transcript provided by the National Human Trafficking Hotline (hotline). However, the transcript primarily depicts the Applicant's responses to questions without indicating some of the related questions. Therefore, we cannot ascertain the exact questions that were presented to the Applicant and some of the answers the Applicant provided are without context. However, in his answers, the Applicant indicated that the smugglers did not physically abuse

him, but he was mentally abused because they kept showing him their guns; they did not force him to work except transporting the car; and they did not release him until his mother paid the additional money which added to a total of \$8800.

The record below also contains 2018 notes from the Applicant's therapist, which provides the Applicant's account of his smuggling journey consistent with his personal statement provided. The therapist's notes indicate that the Applicant reported not knowing what was being transported in the vehicle but "worried that it could have been drugs or firearms." The Applicant also addressed the incident in the motel where one of the smugglers "attempted to grab [him] from behind," explaining that he feared that he would have been raped had someone else not intervened. The remaining relevant evidence below include, among other evidence, a statement from the Applicant's mother corroborating that she had arranged for her son to be smuggled into the United States.

On appeal, the Applicant submits a 2020 psychological evaluation containing an account of the Applicant's journey to the United States that is more detailed than the statement he previously provided and introduced new facts. For example, he provided more details about the reason why he wanted to come to the United States, his journey from Honduras to Mexico, and his first attempt to enter the United States. According to the evaluation, the Applicant reported being "disappointed and suicidal" when he was returned to Mexico after his first unsuccessful attempt to enter the United States unlawfully. He also reported additional details regarding the incident at the motel in [REDACTED] clarifying that the smuggler had attempted to rape him and that he had never disclosed the attempted to rape to anyone previously. The evaluation further indicates that the Applicant was diagnosed with major depressive disorder and posttraumatic stress disorder (PTSD). On appeal, the Applicant also submits background articles relating to trafficking, cultural aspects of mental health, and information regarding PTSD.

As stated, the Director determined that the Applicant did not establish he was a victim of human trafficking during smuggling. In making this determination, the Director acknowledged the traumatic events the Applicant experienced but concluded that the record did not demonstrate that the smugglers transported or harbored him for the purpose of involuntary servitude.

On appeal, the Applicant asserts that he qualifies for T nonimmigrant status because he is a victim of trafficking, and states that the smugglers held him against his will to transport a vehicle to [REDACTED] Texas and that he did not have the freedom to leave.

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

Upon de novo review, the Applicant has not overcome the Director's determination that the record did not establish that he was the victim of a severe form of trafficking in persons.

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); 8 C.F.R. § 214.11(a) (defining the term "severe forms of trafficking in persons"). Coercion is defined 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 or physical restraint against any person; or the abuse or threatened abuse of the legal process.” 8 C.F.R. § 214.11(a).

As an initial matter, the record does not show that the smugglers recruited the Applicant by force, fraud, or coercion as the Applicant testified that his mother entered into a voluntary agreement with the smugglers on his behalf and that after they came the United States and paid the additional smuggling fee, the smugglers delivered him to New Jersey pursuant to that agreement. The Applicant’s statements do indicate, however, that the smugglers transported and harbored him in the trailer home and the motel through coercion, as defined at 8 C.F.R. § 214.11(a). Specifically, the Applicant stated that the smugglers at the trailer were armed with guns and always watched them. The Applicant also testified that he was scared, and also recounted an incident when the smuggler threatened to shoot them if they did not shut up. He further indicated that the smugglers, one of whom carried a gun, grabbed him, and locked him up when he arrived at the motel in San Antonio.

However, as the Director correctly determined, the Applicant has not demonstrated that the smugglers’ actions in transporting and harboring him were for the purpose of subjecting him to involuntary servitude. 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). 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.*

Here, the Applicant’s testimony indicates that the smugglers transported and harbored him to fulfill the smuggling agreement, which included facilitating his entry into the United States and delivering him to New Jersey. The Applicant’s statement and the phone call transcript from the trafficking hotline indicate that the smugglers did not ask, force, or otherwise coerce him to do any work during the course of being smuggled to the United States or while he was harbored at the trailer in Mexico and the motel in [REDACTED]. The Applicant’s statements indicate that the smugglers provided him and another man with a vehicle to drive themselves through a checkpoint to enter the United States. He did not assert that the smugglers threatened or forced him to transport the vehicle. Although there were items in the trunk of the vehicle and the other man hypothesized that there were drugs there, the Applicant stated that he did not know or see what was in the trunk. Likewise, according to the 2018 therapist’s notes, the Applicant reported not knowing what was in the trunk, but “worried that it could have been drugs or firearms.” The Applicant’s suspicions about what may have been in the trunk do not establish that a trafficking situation arose during his smuggling where the record lacks any

probative evidence that the smugglers induced him to transport the vehicle and its contents or that they otherwise placed him in a condition of servitude by using force, threats of physical restraint or injury, or abuse of legal process, as required to establish involuntary servitude. 8 C.F.R. § 214.11(a). Rather, the Applicant's statement and other evidence demonstrate that he was transported and harbored for the purpose of completing the smuggling agreement and he was released upon receiving the additional payment from his mother per that agreement.

We acknowledge the remaining evidence in the record, including the supporting letter of his mother, the therapist's notes, and the psychological evaluation. However, they are insufficient to satisfy the Applicant's burden in these proceedings in the absence of probative evidence and testimony from him demonstrating that he is the victim of trafficking.

As discussed, although the smugglers transported and harbored the Applicant using force and coercion, the record does not demonstrate that they did so with the purpose of subjecting him to involuntary servitude as he maintains. Rather, the preponderance of the evidence indicates that his smugglers transported and harbored him for the purpose of smuggling him to the United States and upon reaching the United States, continued to harbor him in a motel for the purpose of ensuring they received the additional payment for their smuggling services and completing the smuggling arrangement. Consistent with that purpose, the smugglers immediately released the Applicant to his mother upon receiving their payment. Accordingly, the preponderance of the evidence does not establish that the Applicant is a victim of a severe trafficking in persons, as section 101(a)(15)(T)(i) of the Act requires. Consequently, the Applicant has not established his eligibility for T-1 nonimmigrant status.

C. Additional Grounds of Eligibility

Because the Applicant has not established that he is the victim of a severe form of trafficking in persons, he is ineligible for T nonimmigrant status. As this basis for denial is dispositive of the Applicant's appeal, we decline to reach and hereby reserve the Applicant's appellate arguments regarding the remaining eligibility criteria for T nonimmigrant classification. 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

A preponderance of the evidence does not establish that the Applicant is the victim of a severe form of trafficking in persons. Accordingly, he is ineligible for T nonimmigrant status.

ORDER: The appeal is dismissed.