



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

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

In Re: 17500355

Date: FEB. 14, 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 in part that the record did not establish that the Applicant was a victim of a severe form of trafficking in persons. The Director also denied a subsequent motion to reconsider the denial of the T application. On appeal, the Applicant submits a brief and reasserts 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 remand the matter to the Director.

**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 relevant 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).

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, claims to have entered the United States without being inspected, admitted or paroled multiple times, the last of which was in December 2003. In July 2019, the Applicant filed the instant T application, asserting that he was the victim of labor trafficking by M-,<sup>1</sup> a woman he met in 2017 and later invited to live with him. The Director issued a request for evidence (RFE), notifying the Applicant that the record did not establish he was trafficked or that his physical presence in the United States at the time of his application was on account of trafficking.

The Director denied the application, concluding that the record did not establish that the Applicant was the victim of a severe form of trafficking in persons and therefore necessarily did not establish that: (1) he was physically present in the United States on account of such trafficking and (2) had complied with any reasonable request for assistance by law enforcement in the investigation or prosecution of the trafficking. In addition, the Director determined that the Applicant was inadmissible to the United States, and the record shows that the ground of inadmissibility against him had not been waived.

In denying the T application and dismissing the subsequent motion to reconsider, the Director found that the Applicant appeared to be the victim of domestic violence by M- rather than trafficking and that, although trafficking and domestic violence are not necessarily mutually exclusive, the evidence did not establish the Applicant was also recruited, harbored, transported, or obtained through the use of force, fraud, or coercion for the purpose of involuntary servitude during the course of his relationship with M- as he claimed. The record on appeal does not support the Director's finding.

### A. The Applicant's Trafficking Claim

In his initial statement below, the Applicant indicated that he met M- at a bar in July 2017 and they later started communicating and hanging out together. After Thanksgiving in 2017, he indicated M- informed him that she was having family and financial problems and was looking for a place to stay. The Applicant stated that after hearing of her trouble, he invited her to live with him so she could calm down and think about her options. He said that when she moved in with him in November 2017, she was only supposed to stay for one week while looking for work and figuring things out. However, the Applicant explained that M- manipulated him into allowing her to continue living with him for two months while making various demands that she insisted he comply with. For example, he recalled how M- demanded he buy her things, give her money, drive her places, cook for her, and complete lists of various household chores for her that he would not have otherwise done for himself, such as cleaning her laundry, clearing her hair from the bathtub's drain, and picking up after other messes she made throughout the house. The Applicant indicated that M- gave him specific instructions for each chore and threatened him if he did not complete the chores correctly. The Applicant also described how M- manipulated him into complying with her demands when he said no to her requests by pretending to be sad, insulting him, getting mad and threatening him, acting aggressively towards him and yelling at him, and demeaning him in various ways to make him feel guilty and intimidate him. He stated that M- insulted him by saying things such as he and all Mexicans are "cheap," that he did not know how to treat a woman, and that he is nothing in this country. He also recollected her repeatedly calling him names such as "stupid," "stinky," and "immigrant" if she did not get what she

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<sup>1</sup> Initials used to protect individuals' identities.

wanted. He said that she told him that taking care of the house was part of his responsibilities. He affirmed that if he did not complete the tasks on her list she would make him feel down and like he was less than her by saying things like, “[a]ll Hispanic people are dirty and stinky [and are] here to contaminate [the] country.”

The Applicant also indicated that M-, who claimed to be a U.S. citizen, also referenced his lack of immigration status and threatened to call the police if he did not comply with her demands. He explained that he was also afraid to report M- to the police because beginning at the end of December 2017, she threatened to tell the police that the Applicant was illegal and told him that they would take him and not her. He said that she told him the police would send him back to his country and he would then be unable to provide for “his mother and family back home.” The Applicant further detailed that M- kept saying that “if [he] didn’t provide for her, she could pick up the phone and call immigration to report [him].” Per the Applicant’s statements, providing for M- included the Applicant completing the long lists of chores that she gave him and working three jobs in order to comply with her requests out of fear that she would call the police on him. If the Applicant complained about work she required he perform, such as driving her places, he said that she would get loud and again remind him that at any moment she could pick up the phone and call the police or immigration. Along with these threats, the Applicant stated M- also regularly accused him of being abusive and isolating her from her family, which caused him to fear that if she called the police, she would also falsely report his alleged abuse. The Applicant recognized such allegations would be serious and was afraid of what would happen if she called the police. However, around the end of January 2018, he stated that when he discovered that she was doing drugs, he finally found the courage to put his foot down and demand that she find another place to stay. He recalled that she became aggressive and angry as usual but left his home the same night.

The Applicant stated that although M- left, she continued to contact him to demand he give her more money. He said she threatened to sue him for wrongful eviction and to call immigration if he did not give her money. The Applicant confirmed that, out of fear of being reported and falsely accused, he initially complied with her demands and sent her money but then refused to give her more after realizing she would never stop harassing him even if he kept paying her. The Applicant stated that at this point, a man came to his home asking for M- and left when he told him she no longer lived with him. Afterwards, per his account, M- called the Applicant to suggest that she had sent the man and that the man would physically harm him if he did not pay her a large sum of money. After becoming very afraid that the man would return and hurt him badly, the Applicant said he followed a friend’s advice and in [REDACTED] 2018 contacted a lawyer, who helped him report M-’s threats to the police and reassured him that the police would help him despite his legal status. The Applicant stated that the police called M- twice and told her to stop communicating with him. He said that she fully complied only after the police called her the second time. The Applicant described how after the incident he has suffered feelings of fear, anxiety, and depression with symptoms that include nightmares and distrust for others. He indicated he has been seeing a therapist to recover from the psychological and emotional trauma caused by M-. He also indicated he needs to stay in the United States to be able to help in the investigation and prosecution of M- and to stay safe and be able to access the justice system here.

In his supplemental RFE response statement, the Applicant stated that before M- moved in with him, he was only working one job. However, he affirmed that she demanded he buy her things like

cosmetics, cigarettes, and food from restaurants and that, when he told her he could not afford the things she wanted, she told him he had to get another job, ultimately leading him to work three jobs to support her. He again recalled how she became very aggressive when he did not do what she said and constantly threatened that she could call the police to take him away because he lacked legal immigration status. Likewise, when he did not do the work she assigned him in the home, which could take him three or four hours each day, he said she threatened to have him deported. He also recalled that when she demanded work from him, she would always finish by saying, “or you know what could happen.” He said she also would tell him things like, “I can get you deported if you refuse” and “[y]ou better do as I say[, y]ou know me, I will get mad and you don’t want that to happen.” He asserted she used his immigration status to turn him into her servant and told him that if he wanted “an American woman, [he] had to serve her.” He also stated that he quit his extra jobs after he finally escaped her, but that he has struggled financially and psychologically due to what he went through with M-.

In support of his application, the Applicant submitted additional evidence, including copies of financial and employment records, correspondence with law enforcement, a letter from the National Human Trafficking Hotline confirming he made a report to them in April 2018 identifying himself as a trafficking victim, letters from the Licensed Clinical Social Worker treating him, and the [redacted] 2018 police incident report he filed against M-.

#### B. Victim of a Severe Form of Trafficking in Persons

On appeal, the Applicant acknowledges he was in a domestic relationship with M-. However, he asserts that the Director erred in concluding that he was the victim of domestic violence but was not also a trafficking victim. He asserts that the evidence in the record below establishes that he is a trafficking victim because M- obtained him through the use of fraud and coercion for the purpose of subjecting him to involuntary servitude.

Applicants seeking to demonstrate that they are victims 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”).<sup>2</sup> 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

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<sup>2</sup> The definition of a severe form of trafficking also includes commercial sex trafficking, which does not apply in this case. 8 C.F.R. § 214.11(a).

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 regulation 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).

We conclude that the record sufficiently demonstrates the Applicant was the victim of a severe form of trafficking during his relationship with M-. The record establishes that, sometime after they began living together, M- harbored the Applicant through the use of coercion involving threatened abuse of the legal process. The record indicates that, after they began to live together, M- refused to leave in the timeframe the Applicant expected and forced him to remain in a domestic relationship with her for a period of about two months. The Applicant explained that M- knew that he did not have lawful status in the United States and beginning approximately one month after they started living together, M- repeatedly threatened to call the police or immigration to report him if he did not obey her demands that he perform labor and services for her. The Applicant stated that M- always reiterated her threats, causing him to be too afraid to leave her, ask her to leave his home, or to otherwise refuse her demands. The Applicant noted that he was also unable to leave his home and find another place to live because of his lack of status and his own poor financial situation, which the record reflects was caused in part by the monetary demands by M-. Thus, the record therefore shows that M- harbored the Applicant through the use of coercion using threatened abuse of the legal process, as described in the definition of coercion under 8 C.F.R. § 214.11(a).

The record further shows that M- subjected or intended to subject the Applicant to a condition of servitude. According to the Applicant’s statements, during the period they resided together, M- demanded that the Applicant run errands for her, perform various tasks and domestic chores for her benefit and per her requirements, and work additional jobs so he could afford to buy her the things she demanded. The Applicant described the nature of this work she demanded as not being “just general housework or general chores” because it “was all specifically to serve” M-. He stated he spent an additional three to four hours each day working to complete the chores M- demanded daily. In addition, M- told him to get another job in order to comply with her demands when he told M- that he could not afford to buy her the things she demanded, and he eventually worked three jobs in order to be able to meet her demands. The record further reflects that M- coerced the Applicant into performing these labor and services for her by insulting and demeaning him, including on account of his nationality, reminding him of his legal vulnerability due to his lack of immigration status, and repeatedly threatening to get him deported by calling the police or immigration to report him if he did not do what she wanted. He recalled that when she handed him her lists of chores, she would make statements like “[y]ou must treat me right or you know what can happen,” “I can get you deported if you refuse,” and “[y]ou better do as I say[,] you know me[,] I will get mad and you don’t want that to happen.” Likewise, if he complained or resisted doing the work, she reiterated her threats to get him deported and reminded him that he would then be unable to provide for his mother and family back home. Additionally, he indicated she began to regularly accuse him of being abusive and isolating her from her family, which made him fear she would also falsely report him for such alleged domestic abuse if she were to call the police to report him being here illegally. As described in the Applicant’s statement, because of these coercive statements and actions by M-, the Applicant felt he had no choice

but to do the work and provide the services M- required or else risk M- following through on her threats to report him to the police or immigration. The record, including the Applicant's detailed statements, therefore demonstrates by a preponderance of the evidence that M- coerced him to provide her with his labor and services and placed him in a condition of servitude using threats of "abuse of legal process" and a scheme, pattern, or plan in which she used the controlling and psychologically abusive nature of their relationship to cause the Applicant to believe that failure to comply with her demands would result in the "serious harm" in the form of arrest or deportation. *See* 8 C.F.R. § 214.11(a) (defining involuntary servitude).

Accordingly, the Applicant has established that M- harbored him through use of coercion for the purpose of subjecting him to involuntary servitude during his relationship with M-. Therefore, the record demonstrates that he was the victim of a severe form of trafficking in persons as section 101(a)(15)(T)(i) of the Act requires.

### C. Other Eligibility Grounds

The Director determined that because the Applicant had not established that he was the victim of a severe form of trafficking in persons, he also necessarily did not establish that he: (1) is physically present in the United States on account of such trafficking, as section 101(a)(15)(T)(i)(II) of the Act requires; and, (2) has complied with reasonable requests from law enforcement for assistance in the investigation or prosecution of acts of severe forms of trafficking in persons, as section 101(a)(15)(T)(i)(III) of the Act requires, or otherwise meets an exception to that requirement. 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 he meets these and the remaining eligibility requirements for T nonimmigrant status under the Act.

## III. CONCLUSION

The Applicant has demonstrated that he 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 nonimmigrant classification under section 101(a)(15)(T)(i).<sup>3</sup>

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

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<sup>3</sup> As previously noted, the Director also denied the T application on the basis that the Applicant was inadmissible to the United States and the applicable ground of inadmissibility had not been waived. However, the Director denied the Applicant's Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application), seeking a waiver of inadmissibility, solely on the basis that his T application has been denied. As his T application is being remanded for further consideration and issuance of a new decision, the Director shall reopen and reconsider the waiver application if the Applicant otherwise demonstrates eligibility for T nonimmigrant classification.