



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

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

In Re: 19696928

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), and dismissed a subsequent motion to reconsider, concluding that the record did not establish that the Applicant was a victim of a severe form of trafficking in persons and that, therefore, she has not established 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 such trafficking. On appeal, the Applicant submits a brief and reasserts 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; 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 the Dominican Republic, claims to have entered the United States in March 2001 but asserts that she does not recall whether she was inspected, admitted, or paroled at that time. She was later granted deferred action and parole several times until September 2020. The Applicant filed her T application in April 2019, asserting that she was the victim of labor and sex trafficking by P-B-, the live-in manager who supervised her at the hotel where she worked as a housekeeper.¹

A. The Applicant's Trafficking Claim

In her initial statement below, the Applicant described working various jobs to help supplement her husband's income and provide for her mother and their children. She stated she applied for a job at a [] hotel and was interviewed by P-B-. Per her account, she disclosed to P-B- that she did not have work authorization and, after assuring her that it would not be a problem, he hired her in November 2016 as a housekeeper. She indicated that P-B- seemed very normal at first. However, she recalled that shortly after her husband died, P-B- began to ask her questions that made her uncomfortable, including about how much money her husband left her, her children, her comfort with and connection to law enforcement, and whether she had any sexually transmitted diseases. Although the Applicant found his comments and questions bizarre, she said she did not know what to do about them. She stated that between [] and [] 2017, P-B- also asked her multiple times about her immigration status and ability to get a social security number. Each time she indicated she did not have a social security number, and she told him that she guessed that meant she would need to leave the job. However, she indicated that he assured her each time that he would take care of it and that she could keep her job.

The Applicant indicated that P-B- last questioned her about her immigration status one morning in [] 2017. She said he explained to her that his uncle, who was the owner of the hotel, disliked paying her in cash, which P-B- had been doing because she had no legal status. She indicated she again told P-B- that she assumed she would need to leave the job, but he once again reassured her that he would take care of things. The Applicant detailed how later the same day P-B- called her to his room in the hotel, closed the door, forcibly took her phone, told her the security cameras were turned off in the hallway outside the room, and then threw her on the bed and sexually assaulted her despite her crying and telling him not to touch her. After she escaped to a nearby bathroom, per her statement, P-B- told her that she could not leave his room and warned her that she could not tell anybody about what happened because nobody would believe her. The Applicant said he also warned her that because of her immigration status he could accuse her of anything and get her deported. She stated that he further reminded her about the conversation he had with his uncle regarding her lack of immigration status and told her "you need this job," because her husband had just died. The Applicant stated that she knew he meant she had to do what he wanted or else she would lose her job. She stated that, although she did not want to continue to work with P-B-, she was afraid that if she left the job then he would call the police and falsely accuse her of doing something like stealing from the hotel. The Applicant stated that things got worse in the weeks that followed his first assault. She stated that he raped her on two other occasions and sexually harassed her every day, constantly groping

¹ Initials used to protect individuals' identities.

her while she was cleaning. She recalled that P-B- got really angry when she tried to avoid being alone with him. She described how she felt like nobody could stop P-B- from harming her because there was no system in place at the hotel for her to report what he had done since he was her supervisor and his uncle owned the hotel.

The Applicant indicated that another housekeeper at the hotel tearfully disclosed to her in [] 2017 that P-B had also raped her. She indicated that after she and the other worker discussed their shared abuse at the hands of P-B-, neither of them ever went back to work. The Applicant said the other housekeeper reported P-B- to the police and thereafter the police also reached out to her. She described how, despite her fears of law enforcement, she was able to assist them in their investigation and prosecution of P-B-, who was charged with multiple counts of rape, aggravated indecent assault, and harassment for his actions against her and her coworker. She also explained that she was granted deferred action, through Homeland Security Investigations (HSI), so she could assist with law enforcement's investigation and prosecution without worrying about her immigration status. The Applicant also described her efforts to cope with and recover from the ongoing psychological harm caused by her experience.

In her supplemental statement provided in response to the Director's request for additional evidence (RFE), the Applicant provided additional details concerning the events she described in her initial statement. She stated that, over the next few months after he first assaulted her in [] 2017, his abuse became a "constant feature" of her work at the hotel and that she knew when she arrived each day that he might sexually assault her at any time. She stated that he often threatened her about her immigration status, including by telling her he could report her to the police as being "undocumented" so they would turn her over to immigration. She affirmed that she was terrified that if she tried to leave the job he would retaliate against her by carrying out his threats. Because her husband died during this period, the Applicant stated she was terrified of being separated from her children if she got deported because they relied on her for their survival. She said that P-B- knew about her family's situation and would often bring it up and tell her he knew she "needed the job" to care for her kids. She stated that she was desperate to leave her job at the hotel, but she was afraid of what might happen to her and her children if she left and feared nobody would believe her if she reported P-B-.

The Applicant also provided an update regarding her own role in assisting law enforcement with the investigation and prosecution of the case against P-B- and indicated that P-B- later pled guilty to sexually assaulting her. Relative to her recovery efforts, she indicated that she has been seeing a therapist to work through the trauma caused by her experience. In addition to her statements below, the Applicant provided various other documents in support of her T application, including documents relating to her cooperation with law enforcement and the prosecution of P-B-, local news articles regarding the events in question, a letter from her therapist, copies of text messages sent by P-B- after she and her coworker left their jobs, and informational publications on various topics including country conditions in the Dominican Republic and human trafficking.

B. Victim of a Severe Form of Trafficking in Persons

The record demonstrates that the Applicant is a victim of a severe form of trafficking in persons in the form of sex trafficking.

Applicants seeking to demonstrate that they are victims of a severe form of trafficking in persons (trafficking), specifically sex trafficking, must show: (1) that they were recruited, harbored, transported, provided, obtained, patronized, or solicited, (2) for the purpose of a commercial sex act, (3) induced by force, fraud, or coercion, or alternatively, the person induced to perform such an act is under 18 years of age. 22 U.S.C. § 7102(11); 8 C.F.R. § 214.11(a) (defining the terms “severe forms of trafficking in persons” and “sex trafficking”). Commercial sex act is defined as “any sex act on account of which anything of value is given to or received by any person.” *Id.*

The Director determined that the record did not establish that the Applicant was recruited, harbored, or obtained through the use of force, fraud, or coercion “for the purpose” of sex trafficking.² Specifically, the Director reasoned that the evidence did not demonstrate that sex acts were demanded by P-B- as a condition of the Applicant’s employment. The Director further found that the threats made by P-B- were intended to prevent the Applicant from reporting him to the police for sexually assaulting her and were not for the purpose of forcing her to submit to his sexual demands or otherwise to subject her to labor or sex trafficking. Relatedly, the Director noted the record did not indicate P-B- specifically threatened to report her to police or immigration if she quit her job despite her fears that he would. Thus, the Director concluded that the record established the Applicant was the victim of sexual assault and rape, and that although criminal sexual conduct and trafficking are not mutually exclusive, the totality of the evidence did not establish that she was also the victim of trafficking.

We withdraw the Director’s determination that the Applicant was not a victim of sex trafficking. As an initial matter, the record demonstrates that P-B- obtained the Applicant “for the purpose of a commercial sex act,” as required to establish sex trafficking. *See* 8 C.F.R. § 214.11(a) (defining “sex trafficking” to include the obtaining of a person for the purpose of a commercial sex act). Here, the record shows that, several months after the Applicant started her employment at the hotel under P-B-’s supervision, P-B- repeatedly sexually assaulted her and raped her multiple times beginning in [REDACTED] 2017. Further, the Applicant’s statements reflect that P-B- intended the Applicant’s submission to these forced sex acts to be, in part, a condition of her continued employment by him. She stated that she was unable to leave her employment immediately following her rape because her spouse had just passed away and her children were dependent solely on her, and she indicated that P-B- was aware of this fact and repeatedly reminded her of it, including just prior to sexually assaulting her the first time. In addition, her statements indicate that after the first incident, P-B- engaged in a pattern of conduct in which he: warned her not to report the sexual assault and rape(s); regularly threatened to report her to the police regarding her lack of immigration status and to also falsely accuse her of committing a crime; reminded her frequently that he knew she needed her job with him; and then, continued to take advantage of his authority over the Applicant as her supervisor to sexually harass and assault her at their workplace. We acknowledge that P-B-’s threats were, in part, intended to discourage the Applicant from reporting him for assaulting her, as the Director determined. However, as stated, P-B- engaged in a subsequent pattern of conduct showing that he intended that she remain in her employment under his authority and continue to submit to his forced sex acts in exchange for not carrying out his threats. Therefore, while the Director is correct that PB subjected the Applicant to forced rape and sexual assault, the record as a whole indicates he also induced her continued

² The Director also determined that the Applicant had not established that she was the victim of labor trafficking as she had not established that P-B- harbored her for the purpose of subjecting her to involuntary servitude. We do not reach this issue as we have found here that the Applicant was the victim of sex trafficking in which she was induced by force to perform commercial sex acts.

submission to the sex acts in exchange for not carrying out his threats relating to false criminal accusations and possible deportation, as well as in exchange for her continued employment, and by extension the continued ability to provide for her children, which was something of “value” to the Applicant, as described in the definition of “commercial sex act.” *Id.* The record therefore shows that P-B- obtained the Applicant for the purpose of commercial sex acts, within the meaning of sex trafficking.

In order to establish that the Applicant was a victim of a “severe form of trafficking in persons” under 8 C.F.R. § 214.11(a) in the form of sex trafficking, the record must also show that the commercial sex acts were “induced by force, fraud, or coercion.” The Applicant’s credible statements show that P-B- forcibly sexually assaulted and raped her despite her clearly informing him she did not want to be touched by him. The Applicant’s statements also indicate P-B- did not seek her permission and used his authority as her supervisor when he physically groped and continued to sexually abuse her at their workplace. Moreover, P-B- also threatened her with the loss of her employment and being reported to the police and immigration under false pretenses if she did not allow him to do what he wanted to her. Based on the foregoing, the record shows that P-B- used physical force and psychological coercion to induce her to engage in commercial sex acts against her wishes.

Accordingly, the Applicant has established that she is the victim of sex trafficking in which she was obtained for the purpose of commercial sex acts induced by force, fraud, or coercion. *See* 8 C.F.R. § 214.11(a) (defining “severe forms of trafficking in persons” and “sex trafficking”).

C. Other Eligibility Grounds

The Director determined that because the Applicant had not established that she was the victim of a severe form of trafficking in persons, she also necessarily did not establish that she: (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 she meets these and the remaining eligibility requirements for T nonimmigrant status under the Act.

III. CONCLUSION

The Applicant has demonstrated that she 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).

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