



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

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

In Re: 20133852

Date: February 22, 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 the matter is before us on appeal. 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. 8 C.F.R. §§ 214.11(b)(1)-(4).

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).

The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. 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 Honduras, most recently entered the United States without inspection, admission, or parole in 2018. In May 2019, he filed the instant T application.

A. The Applicant's Trafficking Claim

In his written statements before the Director, the Applicant explained that after attempting to travel to the United States in 2008, he was caught at the border and deported back to Honduras. He and a friend then decided to try again and they traveled to Mexico, where a friendly van driver approached him and insisted on transporting him, even though he had no money. As they traveled, the driver picked up other passengers. At one point, the driver refused to stop when a passenger wanted to get out, and the man jumped from the van. The Applicant stated that the driver then sped up, saying he needed to avoid the police, and the Applicant realized that "these were not good people." The driver took the Applicant and other passengers to a wooden area and they started walking. At this time, the Applicant realized that the driver and three passengers were armed. They walked through the night; the Applicant and other passengers were told to stay quiet until they reached an unfinished house.

At the house, the Applicant was given a cell phone and instructed to call his family members and ask for money, or else he would die. The Applicant made several calls, and his relatives sent \$1,500.00. He stated that during the calls, the captors held a gun to his head. The Applicant stated that he remained in this house for approximately ten days, during which time he was forced to clean the house, fetch water, and sweep up dirt. He also stated that he had to sleep on a bare floor without a pillow or blanket, and was given food and water only once per day. The Applicant explained that he believes he was held by [redacted] that he never agreed to any of the work that he performed, and that he was kept under armed guard and not allowed to leave. After nine days, his captors told him they were taking him to the United States. He walked all night and then waded across the Rio Grande, where his captors took him to another house and kept him in similar conditions. Once again, his captors forced him to call his family to demand more money, while they held a gun to his head. The Applicant stated that his family wired an additional \$500.00. He also had to clean the house, fetch water, and sweep dirt, and was fed only once per day. After five days, fearing he would be killed once his family could no longer pay, the Applicant and four other men escaped through the woods. They caught a bus to [redacted] Texas, where the Applicant contacted his family in North Carolina.

The Director denied the T application, determining that the Applicant had not demonstrated that he was a victim of trafficking, as required. The Applicant has not overcome this determination on appeal.

B. The Applicant Has Not Demonstrated That He is a Victim of Trafficking

To demonstrate that they were a victim of trafficking, a T applicant must show, as relevant here: (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. *See* 8 C.F.R. § 214.11(a) (defining the term "severe forms of trafficking in persons"). On appeal, the Applicant claims that he is a victim of trafficking because he was recruited, harbored, and transported through force and coercion, and subjected to involuntary servitude and slavery

"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" 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). As we have explained in policy guidance, the term “slavery” is not defined in the Act or regulations; however, it is “generally understood to mean the state of being held under the complete and total ownership or control of another person or entity and being deprived of liberty, autonomy, and independence for the purpose of subjecting the victim to forced labor or services.” See 3 USCIS Policy Manual B.2(A)(4), <https://www.uscis.gov/policy-manual>.

In support of his claim, the Applicant avers that his captors transported him to the United States, held him against his will, forced him to perform work including cleaning, shoveling dirt, and hauling water, and denied him the ability to leave. The Applicant acknowledges that he entered into a voluntary agreement to be smuggled to the United States, but argues that the initial voluntariness does not negate the smugglers’ subsequent actions. He urges U.S. Citizenship and Immigration Services (USCIS) to consider that traffickers may have multiple motives for their actions, and maintains that even if his traffickers were motivated by financial gain, he did not consent to the forced labor.

Upon *de novo* review, however, the preponderance of the evidence does not demonstrate that the Applicant is a victim of trafficking because, regardless of whether the Applicant was recruited, harbored, or transported through force or coercion, the record does not establish that the smugglers’ purpose was to subject the Applicant to involuntary servitude or slavery. Specifically, it does not demonstrate that the smugglers placed or intended to place the Applicant in a “condition of servitude,” as the definition of involuntary servitude at 8 C.F.R. § 214.11(a) requires, or to subject him to forced labor or services. Rather, the record indicates that the smugglers offered to bring the Applicant into the United States at no charge with the purpose of holding him captive in order to induce his family to pay the money that they demanded. The record suggests that the smugglers considered this money to be payment for bringing him to the United States, as they transported him across the U.S. border after receiving \$1,500.00 while at the safe house in Mexico and appeared, at the time of his escape, to be demanding additional payment for having completed the journey.

Regarding the work the Applicant claims he was forced to perform, the record reflects that the smugglers required the Applicant to clean the house, fetch water, and sweep dirt, and that in doing so, he participated in chores related to the upkeep of the safe house. However, the Applicant has not provided sufficient details about the tasks he performed to show that they were for the purpose of subjecting him to involuntary servitude or slavery rather than to support the ongoing smuggling operation. See *Matter of Chawathe*, 25 I&N Dec. at 375-76 (AAO 2010) (describing an applicant’s burden under the preponderance of the evidence standard of proof and explaining that in determining whether an applicant has met their burden, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence). As such, irrespective of whether a trafficker may have multiple motives for their actions, the Applicant has not demonstrated that the smugglers intended to subject him to involuntary servitude or slavery in this case.

The Applicant additionally argues that the Director erred in placing too much weight on the brevity of his experience with his captors. However, the record reflects that the Director noted the length of time the Applicant remained with the smugglers, but ultimately determined that he had not established that he was a victim of trafficking based on the totality of the evidence provided. Although T applicants do not need to show that they were victimized for a defined length of time, see 3 USCIS Policy Manual

supra, at B.2(A)(6), for the reasons previously stated, the Applicant has not established that he is a victim of trafficking based on the approximately two weeks he remained under the smugglers' control.

III. CONCLUSION

The Applicant has not established that he is a victim of a severe form of trafficking in persons. Consequently, the Applicant has not demonstrated his eligibility for T-1 nonimmigrant status.

ORDER: The appeal is dismissed.