



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 18802327

Date: MAR. 17, 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 she was a victim of a severe form of trafficking in persons and that, as a result of this determination, she had not established she 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. On appeal, the Applicant submits a brief 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 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.” 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.* Sex trafficking means the “recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.” 22 U.S.C. § 7102(12); 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, 8 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 of Afghanistan and a citizen of Germany, was last admitted into the United States in February 2018 with an F-1 student visa. In January 2020, the Applicant filed the instant T application asserting that she was the victim of labor and sex trafficking by her domestic partner, V-P-.¹

A. The Applicant's Trafficking Claim

In her statements below, the Applicant indicated that she met V-P- in 2008 while he was serving as a pastor at a Hindu temple in Germany and they entered into a relationship. She stated that in 2009, they performed a traditional religious wedding between the two of them, but she understood this marriage was not considered a legal marriage. She stated that her family opposed the marriage and believed that V-P- only wanted to get immigration papers to remain in Germany. She also recalled that V-P- screamed at her and pressured her for a court wedding, telling her he needed the marriage to happen because his visa was expiring.

According to the Applicant, V-P- relocated to India in 2010, after borrowing money from her to start a business so that he could obtain a business visa to return to Germany. She stated she did not want to go with him and later he contacted her and told her that he had legally married someone else there. However, she indicated that he continued to call her when he was away from his spouse, alternately telling her he loved her or blaming her as being selfish for not supporting him with his immigration paper. The Applicant stated that in 2010, she found out V-P- got a job in Connecticut and decided to visit her brother who lived in New York because she wanted to see V-P-, who had told her he had tuberculosis and wanted her to visit him. She indicated that they continued to remain in contact after she returned to Germany, and she visited the United States on a tourist visa a few times but later obtained a student visa. The Applicant indicated that during the span of their approximately 10-year relationship, the Applicant and V-P- arranged for her to visit him in various locations in the furtherance of their romantic relationship. According to the Applicant, in some instances, V-P- paid for her transportation and hotel, and in other instances, the Applicant paid her own transportation. She further stated that when she moved to New York to be with him, V-P- gave her a "little cash" and free food from the temple but she paid for her rent and other expenses and her brother paid her tuition. According to the Applicant, V-P- continued to assure her that he only loved her, and they married again in 2014 in a traditional ceremony, but this wedding also was not considered a legal marriage.

The Applicant stated that in 2016, V-P- got a job at a Hindu temple in [REDACTED] California and relocated there with his spouse and their children. She stated that after V-P- asked her to move to California so they can be together, she agreed and relocated. She indicated that V-P- paid for her transportation, as well as her rent there. She indicated that he used to visit her at the apartment, occasionally bringing one of his sons, who she would watch for up to eight hours. The Applicant stated that V-P- used to tell her he intended to get a divorce but that his spouse was monitoring his

¹ We use initials to protect individuals' identities.

every move through his cell phone, computer, bank accounts, and car. However, she stated that he also told her that his spouse knew how to make a husband happy and handle things in public, and she saw pictures of him with his family on social media taken on various family trips.

According to the Applicant, V-P- obtained a new job and relocated to [redacted] Washington in 2017 after his spouse left him. The Applicant stated that V-P- asked her to move in with him in [redacted] and told her that he would marry her legally and present her as his wife in the Hindu temple in [redacted]. The Applicant stated that she agreed and relocated there to be with him. The Applicant stated that in [redacted] V-P- introduced her as his wife although they were not able to marry legally because V-P- was still married to his wife. The Applicant stated that in [redacted] the temple where V-P- worked provided them with a three-bedroom apartment and food free of charge. She reported feeling isolated there because she did not have a driver's license, and there was no bus for her to take. She stated that she walked to places but everything was far. The Applicant reported that after moving to [redacted] V-P- argued with her "about everything" and was very aggressive. She stated that he did not reciprocate when she tried hugging him; never gave her money for living expenses although he was the only one working at the time; accused her of being after his money; told her he did not want to marry her legally because their marriage would not "go well;" and told her she was not a "good wife." The Applicant recounted an incident when V-P- locked himself in a room wanting to be alone after an argument and told the Applicant to leave, but she did not leave because she did not know what to do and where to go. She indicated however that they got married in Canada in another traditional Hindu ceremony for the third time in [redacted] 2018; however, this ceremony was also not legal and V-P- was still married to his spouse at the time. The Applicant reported that when she shared their problems with V-P-'s mother, she encouraged her to get pregnant so V-P- would see her more as a wife. However, when she got pregnant in March 2018, V-P- told her he did not want the baby with her and because he could not afford it. She stated that he got mad, slapped her face, and told her he did not believe she was pregnant because they did not have sex often.

According to the Applicant, after moving to [redacted] V-P- threatened and physically abused her. She recounted an incident when she questioned him after being out all day, V-P- "grab[bed] his belt" and ask her what she wanted to know. She stated that she became afraid and got quiet and he went into the bedroom and slept alone. She recalled another incident a few days after their [redacted] 2018 wedding ceremony where he punched her with a closed fist repeatedly in the face, right arm, and back, and threw her down on the stairs because she asked him too many times to do things together. She stated that she wore long sleeves to hide her injury and told neighbors that she fell in the shower. The Applicant stated that two days after that incident, V-P- "punched" her again in the same arm and "asked [her] to talk softly and lower [her] voice." She stated that her arm was injured "heavily," and she asked him to take her to the doctor. She stated that he agreed to take her to the doctor, but she told the doctor that she fell down the stairs because V-P- was with her, and she was afraid he would hurt her if she told the truth. She stated that after the doctor asked him to leave the room, she reported the abuse to the doctor, who then provided her with the contact information for domestic violence agencies.

The Applicant also stated that after V-P-'s parents visited and stayed with them in the spring of 2018, she had to do all the housework as "requested" by V-P- and his parents, including cooking all the meals, cleaning, and laundry for them all. She stated that his mother told her it was her "duty as a wife" to cook all the food. She stated that it would take her six to seven hours a day to complete all the housework and cooking. She stated that they "forced" her to eat by herself after they had finished

eating and treated her like a house servant. The Applicant stated that V-P's mother seldom cooked, but when she did, she prepared the Applicant's food separately and told her to eat first before serving the others. The Applicant reported that V-P's mother called her names, yelled at her, and monitored her. She indicated that she cried a lot and called her mother, who was angry and concerned for her and asked her how many times she was going to "repeat the same cycle" with V-P-.

The Applicant stated that in April 2018, V-P- took her to a planned parenthood clinic in [redacted] because she told him she needed a checkup for infection but in fact she terminated her pregnancy. She stated that later she told V-P- and his parents she had a miscarriage. She stated that because she was still bleeding from the procedure, she was considered "dirty" and therefore she could not come in the kitchen or be near V-P-'s father. She stated that they made her stay in her room and his mother brought her little food, but she could not request more food. She stated that V-P-'s mother fought with her a lot and was verbally abusive to her during this time although she was still grieving. The Applicant stated that she learned that V-P-'s brother was going to visit, and he and his parents wanted her out because his brother did not even know about the Applicant.

The Applicant stated that after contacting a domestic violence shelter in [redacted] Washington, she spoke with campus police in [redacted] 2018 about the abuse she was suffering from V-P- and his mother, and she decided to leave V-P- in May 2018. She stated that she told V-P- she was going back to Germany because her visa was expiring. She reported that V-P- carried her "stuff" out and cried in the car with her until a woman from a domestic violence shelter came and took her to a shelter. The Applicant indicated that V-P- did not know where she was going or that she had reported him. She stated that in December 2018, she moved back to New York and stayed with her brother a short time.

The remaining relevant evidence in the record includes a letter from the Applicant's sister providing her account of the Applicant's relationship with V-P- consistent with the statements the Applicant provided. The record also contains two letters from case managers at [redacted] explaining the services they provide to the Applicant, a narrative by the [redacted] Police Department summarizing the Applicant's report of V-P-'s physical abuse, and background articles relating to trafficking.

As stated, the Director determined that the evidence in the record was not sufficient to demonstrate that the Applicant is a victim of a severe form of trafficking in persons. On appeal, the Applicant asserts that the Director erred in concluding she was not a victim of trafficking, and states that V-P- transported her to [redacted] Washington where he harbored her for her forced domestic labor and commercial sex through fraud, force, and coercion.

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

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

1. Labor Trafficking

Applicants seeking to demonstrate that they were victims of a severe form of trafficking in the form of labor 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. See 22 U.S.C. § 7102(11)

(defining the term “severe forms of trafficking in persons”); 8 C.F.R. § 214.11(a) (same). 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).

On appeal, the Applicant asserts that V-P- transported her to [] and harbored through use of fraud by making false promises, his status as a religious leader, her immigration status, and her social status to “lure” her into isolation for the purposes of exploiting her for her labor.

Regardless of whether V-P- transported and harbored the Applicant for her domestic labor through use of force, fraud, and coercion, the evidence does not establish that he did so for the purpose of subjecting her to involuntary servitude, as the Applicant asserts on appeal. 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.*

The record, including the Applicant’s statements, the supporting statement of her sister, the police report, and the letters from the case managers, establish the domestic violence in the form of physical, psychological, and verbal abuse to which V-P- subjected the Applicant during the time they lived together in []. As the Director noted, 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. However, the preponderance of the evidence in this case does not establish that a trafficking situation in fact arose during the Applicant’s relationship with V-P-. The Applicant asserts that she was the victim of trafficking by V-P- because he used physical force, coercion, and fraud to control her movements and forced her into domestic servitude. The record reflects that V-P- insulted her, told her that she was not a good wife, inflicted physical abuse on her regardless of whether the Applicant performed her work, and used psychologically coercive tactics to keep the Applicant in the abusive relationship over a period of 10 years. However, the Applicant did not assert and the record does not show that he engaged in these abusive tactics for the purpose of making her work or place her into a condition of servitude. We acknowledge that the Applicant’s statements indicated that when V-P-’s parents came to visit and stayed with them, the Applicant was “expected” to do all the housework as they “requested.” However, she did not allege that V-P- or his parents used physical

force or threats of physical restraint, physical injury, or abuse of the legal process in order to force her to perform such labor or to otherwise place her into a condition of servitude, consistent with the definition of involuntary servitude. While we agree with the Applicant's claim on appeal that being forced to work inside their home did not mean that a trafficking situation did not exist, she has not shown that such a situation arose during her relationship with V-P-.

Additionally, the record does not otherwise establish that V-P- subjected the Applicant to a condition of servitude during their relationship. Although the Applicant asserts that V-P- limited her movements and communication with others, her statements indicate that she had freedom of movement and she had the ability to communicate with her family and other individuals from the medical community, her school, and the police department. According to the Applicant, when she lived in [redacted] she did not leave the house because she did not have a driver's license and there was no bus for her to take. However, she also reported that she could walk to places though everything was far. She did not allege that V-P- forced or coerced her to stay in the house and otherwise prevented her from leaving. In addition, the Applicant recounted an incident when V-P- locked himself in a room wanting to be alone after an argument and told the Applicant to leave, but she did not use the opportunity to leave. Further, she stated that V-P- helped with carrying her belongings out when she finally made the decision to leave him and did not prevent her from leaving. In her statements, the Applicant also indicated that she was free to contact her family, her doctors, and her advisor at the college and spoke to them about her abusive relationship with V-P-. Although the Applicant recounted an incident in which the V-P- took the phone from her while she was talking to her mother and hung up the phone after telling her he was taking care the Applicant, she also reported calling her mother on other occasions to discuss her relationship with V-P- and her pregnancy. She also stated that she borrowed money from her brother in the United States for her own support on several occasions throughout her relationship with V-P-, and her statements reflect that she was free to return to her family as she eventually did. Accordingly, the evidence as a whole does not show that V-P- restricted her freedom and subjected her to a condition of servitude.

Although we agree that the evidence shows that V-P- mistreated the Applicant and physically and psychologically abused her during their domestic relationship, the record as a whole indicates that V-P-'s mistreatment and abuse of the Applicant was not for the intended purpose of subjecting the Applicant to involuntary servitude as that term is defined at 8 C.F.R. § 214.11(a), but rather, was an element of the abuse the Applicant endured in a relationship characterized by domestic violence. Accordingly, the preponderance of the evidence does not establish that V-P- transported and harbored the Applicant for the purpose of subjecting her to involuntary servitude, as required by section 101(a)(15)(T)(i) of the Act.

2. Commercial Sex trafficking

On appeal, counsel asserts that the Applicant is also the victim of trafficking in the form of sex trafficking because she relied on V-P- for food and shelter and in exchange she provided him with sex. Counsel further states that V-P- understood the transactional nature of the exchange and that V-P- "indicated to [the Applicant] that she owed him." Contrary to counsel's assertions, the evidence does

not demonstrate that V-P- maintained a sexual relationship with the Applicant for the purpose of a commercial sex act induced by force, fraud, or coercion.²

Applicants seeking to demonstrate that they are victims of a severe form of trafficking in the form of sex trafficking in persons 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.³ See 22 U.S.C. § 7102(11), (12) (defining the terms “severe forms of trafficking in persons” and “sex trafficking”); see also 8 C.F.R. § 214.11(a). 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 evidence does not demonstrate that the Applicant was recruited, harbored, transported, provided, obtained, patronized, or solicited by V-P- for the purpose of commercial sex act. The Applicant’s own statements indicate that during the span of their approximately 10-year relationship, the Applicant and V-P- mutually arranged occasions in which she visited him in furtherance of their romantic relationship, which was also sexual in nature. According to the Applicant, in some instances, V-P- paid for her transportation and hotel, and in other instances, the Applicant paid her own transportation. She further stated that when she moved to New York to be with him, V-P- gave her “little cash” and free food from the temple but she paid for her rent and other expenses and her brother paid her tuition. The Applicant stated that when she moved to California to be with him, V-P- paid for her rent and brought her food. She also expressed her disappointment that V-P- did not visit her there regularly. She stated that he did not come when she needed him but “show[ed] up” unannounced whenever he wanted. She stated that she felt that she had to be ready to see him whenever he wanted and felt like she “owed” him. She further stated that she was afraid that he would kick her out of the rental place. However, the Applicant did not assert and the record does not show that V-P- induced her to have sex with him in exchange for her to stay in the rental apartment or anything else of value to her, consistent with the regulatory definition of commercial sex act.

The record also does not establish that V-P- induced or intended to induce the Applicant to perform commercial sex acts through fraud, force, or coercion. The evidence indicates that the Applicant entered into a voluntary living arrangement with V-P- in [REDACTED] Washington where they presented themselves as a husband and wife, lived in a three-bedroom apartment free of charge, and received free food as well. We acknowledge the Applicant’s statements indicating that V-P- physically and verbally abused her; however, she did not allege and the record does not demonstrate that V-P- used force or coercion through threats of physical restraint, physical injury or serious harm, or deportation or other abuse of legal process to compel her to engage in a commercial sex act, nor do they show that V-P- demanded sex acts from the Applicant or forced her to engage in such acts. Despite the Applicant’s financial dependence on V-P- and the physical abuse she endured, the record demonstrates that the Applicant was free to obtain, and did obtain, money from her family, pay her college tuition,

² Counsel cites some of our non-precedent decisions in support of the commercial sex claim. These decisions were not published as precedent decisions and therefore do not bind USCIS officers in future adjudications. See 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case and may be distinguishable based on the evidence in the record of proceedings, the issues considered, and applicable law and policy. As discussed, the Applicant here has not demonstrated that V-P- transported or harbored her for the purpose of a commercial sex act that was induced by fraud, force, or coercion.

³ The alternative ground is not applicable here as the Applicant was over 18 years of age at the time of the claimed trafficking.

move away from V-P-, and eventually move out of state. There is no evidence that V-P- used force, fraud, or coercion to induce the Applicant to engage in sexual acts in exchange for food, shelter, or other things of value. Absent probative testimony from the Applicant, the record lacks evidence to support a conclusion that V-P- recruited, harbored, transported, provided, obtained, patronized, or solicited the Applicant for the purpose of a commercial sex act induced by fraud, force or coercion, as required to establish sex trafficking. 8 C.F.R. § 214.11(a).

C. Additional Grounds of Eligibility

Because the Applicant has not established that she is the victim of a severe form of trafficking in persons, she 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 grounds for denial, including physical presence in the United States on account of trafficking and compliance with any reasonable requests for assistance in the investigation or prosecution of the trafficking. 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

As stated, the record indicates that V-P- and the Applicant maintained a long-term romantic relationship. We also recognize that the Applicant suffered serious physical and emotional harm as a result of domestic violence by V-P- during their relationship. However, the record does not establish that during their relationship, a trafficking situation arose in which V-P- subjected or intended to subject the Applicant to involuntary servitude or commercial sex trafficking. Accordingly, the Applicant has not 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). Consequently, the Applicant is ineligible for nonimmigrant classification under section 101(a)(15)(T) of the Act.

ORDER: The appeal is dismissed.