



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

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

In Re: 15361056

Date: NOV. 4, 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. 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. *See also* 8 C.F.R. §§ 214.11(b)(1)-(4).

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”). Thus, an applicant must show not only the particular “means” used (force, fraud, or coercion), but also that such means was used for a particular “end” – namely for the purpose of subjecting the applicant to involuntary servitude, peonage, or debt bondage.

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). 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).

## II. ANALYSIS

The record reflects that the Applicant entered the United States without being inspected, admitted, or paroled in 2002, and began working for an [ ] factory named [ ] in 2005. According to the Applicant, he was the victim of a severe form of trafficking and escaped before the involvement of a law enforcement agency that investigated the [ ] company.

In denying the application, the Director concluded that the Applicant did not demonstrate that, at the time of filing the T application, he was physically present in the United States on account of trafficking. On appeal, we issued the Applicant a notice of intent to dismiss (NOID), informing him that a review of the record did not establish that he was a victim of trafficking, a predicate requirement to establishing the remaining eligibility criteria for T nonimmigrant classification under section 101(a)(15)(T)(i) of the Act, including the physical presence requirement. The Applicant has timely responded with a brief.

### A. The Applicant's Trafficking Claim

In his statements below, the Applicant attested that he began working for [ ] in 2005. He recalled that at first he was paid but beginning in 2008, the company paid its employees with checks from accounts that did not have sufficient funds. In addition, the Applicant claimed that his bank charged him a fee of \$35 each time he attempted to cash a paycheck that was not sufficiently funded. According to the Applicant, although supervisors and the owner of [ ] promised that employees would be paid when customers paid, for the last three years of his employment at [ ] the Applicant was only paid for 40 weeks of work. The Applicant indicated that he sometimes worked 18 hours per day because his employer wanted the employees to finish all work within the same day; however, he explained that it was not possible to finish because the machines required to do detailed work were often not working correctly. The Applicant also stated that supervisors stated that if the employees left the company then they would receive no pay. The Applicant recounted that he was eventually promoted to supervisor and given a raise as inducement to stay with [ ] but that he did not benefit from the raise because he was still unable to cash the paychecks.

The Applicant further recounted that the situation he experienced with his employer stressed his personal and financial situation, that his debts increased each month so that he fell behind in rent and bills, and that sometimes he did not have enough food to eat. Eventually, the continued nonpayment of his salary forced the Applicant to borrow money to feed his family. Based on the continuing financial pressure, the Applicant claimed that he experienced frequent headaches, one of his eyes used to swell up and get red, he suffered from insomnia, and he constantly worried that he would end up sleeping on the streets. The Applicant stated that he felt as though he could not leave or quit the job because his employer would state that things would get better, but for that to happen the Applicant would have to continue working in order to allow the company to catch up financially. Although the Applicant stated that he eventually left the company in 2011, he returned to work for [ ] for an additional period of two months to help the owner finish some work. He indicated that he learned that some other former employees had reported [ ] to an unspecified person or entity but did not join them because he did not have legal status and was afraid that he would be at risk if he went to the authorities. The Applicant specified that he feared retaliation from the owner of [ ] because he asked the Applicant about his legal status when the first group of

employees had reported the employer to the authorities. Finally, the Applicant stated that it took him a long time to pay off the debts he had accrued from the lack of wages, and that during this time he could not afford to participate in social events, consistently pay electric bills, or pay for car repairs.

With his T application, the Applicant also submitted a Form I-914 Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Supplement B), signed by a certifying official of the Department of Labor's Wage and Hour Division. The Supplement B and an accompanying attachment asserted that the Applicant was a victim of trafficking and sets forth an account of the Applicant's trafficking claim that is generally consistent with his two written statements before the Director. The Applicant also submitted two psychological evaluations that show he had been diagnosed with adjustment disorder with mixed anxiety and depressed mood.

#### B. The Applicant Is Not the Victim of a Severe Form of Trafficking in Persons

Although not addressed by the Director, our *de novo* review of the record does not establish that the Petitioner is the victim of trafficking. As noted above, applicants seeking to demonstrate that they are victims of a severe form of trafficking must show in pertinent part: (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). Thus, an applicant must show not only the particular "means" used (force, fraud, or coercion), but also that such means was used for a particular "end" – namely for the purpose of subjecting the applicant to involuntary servitude, peonage, debt bondage, or slavery.

In response to the NOID, the Applicant does not submit any additional evidence and instead provides a brief in which he maintains that he was victim of labor trafficking because [redacted] violated labor, immigration, and tax laws; was aware of and used his immigration status to abuse him; used and manipulated the Applicant because of his financial need; and coerced him to work with a promise that he eventually would be paid for his work. Finally, the Applicant claims that he suffered serious psychological and financial harm as a result of his employment with [redacted] citing to a decision from the First Circuit Court of Appeals discussing the fact that "serious harm" is broadly defined. *U.S. v. Bradley*, 390 F3d 145, 154 (1st Cir. 2004). We acknowledge this assertion as well as the Applicant's claims that [redacted] financially exploited and psychologically manipulated him, and that he believed he needed to continue working for the company in order to receive back pay. However, as explained in our NOID, assuming *arguendo* that [redacted] obtained the Applicant through the use of force, fraud, or coercion as he asserts, a preponderance of the evidence does not establish that [redacted] did so 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).

The Applicant’s account of his trafficking claim indicates that his employer recruited and obtained him using fraudulent tactics, consistent with labor exploitation. However, an employer’s violation of labor, immigration, and tax laws in recruiting or obtaining an employee does not automatically establish that the employee is necessarily also a victim of a severe form of trafficking in persons. As explained, in order to establish that he is a victim of trafficking, the Applicant must demonstrate that [redacted] recruited, harbored, transported, provided, or obtained him using such fraudulent tactics *for the purpose of* subjecting him to involuntary servitude, which he has not shown.

We acknowledge that serious harm can include psychological or financial harm and that the Applicant suffered financial harm as a result of [redacted] practice of not paying his wages, while promising payment of back wages if he continued to work. We also acknowledge that the Applicant’s financial obligations, resulting from his personal debts and having to provide for his family, placed considerable financial and psychological pressure on him to keep working. Lastly, we acknowledge that the certifying official concluded that [redacted] was coercive when it told its workers that they needed to keep working in order for the company to make money and pay the workers’ back wages. Nonetheless, a preponderance of the evidence does not establish that [redacted] actions were intended to induce or actually induced the Applicant to enter into a “condition of servitude,” a prerequisite for establishing involuntary servitude, because the record does not reflect that [redacted] coerced or forced him into “the condition of being a servant or slave,” or a prisoner sentenced to forced labor. 8 C.F.R. § 214.11(a); *Black’s Law Dictionary, supra*. In this regard, the Applicant does not assert and the record does not indicate that [redacted] or any of its representatives were aware of his debts and other financial obligations, even though some of them appear to have been caused by [redacted] failure to pay wages in a timely manner, or that the company intended to use those obligations to coerce the Applicant into a condition of servitude. Furthermore, the record reflects that the Applicant remained free to obtain employment elsewhere and that [redacted] and its representatives did not force him to work or continue working for the company, tell the Applicant that he was prohibited from quitting, or threaten him in order to compel him to stay.

The Applicant also claims that [redacted] subjected him to involuntary servitude by threatening abuse of legal process with respect to his immigration status. In support, the Applicant stated that he feared his employer might report him based on his lack of legal immigration status and referenced a single incident in which his employer inquired about his legal status, but the Applicant did not claim that [redacted] actually threatened to report him and did so as a means of coercing him into a condition of servitude. Instead, the Applicant stated that he continued working because of the promise of being paid, and eventually, he chose to leave the position after not receiving pay even after a promotion. While we acknowledge his claims, the Applicant bears the burden to establish eligibility for the requested benefit by a preponderance of the evidence, *Matter of Chawathe*, 25 I&N Dec. at 375. Here, the evidence in the record, including the Applicant’s statements and the Supplement B, does

not indicate that [ ] specifically knew of or mentioned his immigration status, or directly threatened him with deportation or police involvement as a means to coerce or force him to work in a condition of servitude. As a result, the Applicant has not established by a preponderance of the evidence that [ ] intended to subject him, or in fact subjected him, to involuntary servitude by threatening abuse of the legal process. 8 C.F.R. § 214.11(a) (“involuntary servitude” defined).

Similarly, no evidence in the record, including the Applicant’s statements, indicates that [ ] ever used or threatened to use physical restraint or injury in order to coerce or force him to work in a condition of servitude, as described under 8 C.F.R. § 214.11(a). Thus, while we agree that the evidence demonstrates that [ ] mistreated and manipulated the Applicant, the record as a whole indicates that [ ] actions were not for the intended purpose of placing him in a condition of servitude, and thus subjecting him to involuntary servitude, as that term is defined at 8 C.F.R. § 214.11(a).

Consequently, the Applicant has not established by a preponderance of the evidence that [ ] or any of its representatives obtained him for labor and services through the use of force, fraud, or coercion for the purpose of subjecting him to involuntary servitude, as required by section 101(a)(15)(T)(i)(I) of the Act. The Applicant has therefore not established that he is the victim of a severe form of trafficking in persons as required by section 101(a)(15)(T)(i) of the Act.

**ORDER:** The appeal is dismissed.