



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

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

In Re: 22341985

Date: SEP. 09, 2022

Motion on Administrative Appeals Office 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 he was physically present in the United States on account of a severe form of trafficking. The Applicant appealed the matter to us and we dismissed it. The matter is now before us on a motion to reconsider.

Upon review, we will dismiss the motion.

**I. LAW**

A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3).

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) (reiterating the statutory eligibility criteria).

**II. ANALYSIS**

The Applicant, a 36-year-old native and citizen of El Salvador, last entered the United States without being inspected, admitted, or paroled on or about August 2005. In August 2018, he filed his T application on the basis that he had been recruited by his employer, [REDACTED] through fraud and coercion for the purpose of subjecting him to involuntary servitude. The Director denied this application, determining that the Applicant had not established his physical presence in the United States is on account of his trafficking. On appeal, the Applicant asserted that he met the physical

presence requirement as an applicant who escaped trafficking before a law enforcement agency (LEA) became involved, pursuant to 8 C.F.R. § 214.11(g)(1)(iii). We dismissed this appeal.

On motion, the Applicant contends that we improperly considered the degree to which he was actively involved in the investigation and therefore incorrectly applied 8 C.F.R. § 214.11(g)(1)(iii) to the relevant facts of his case. Specifically, he argues that in our decision, we implied that a consideration of whether an investigation occurred as a result of his reporting was relevant in establishing that he satisfied the requirement at 8 C.F.R. § 214.11(g)(1)(iii). He contends that in so doing, we conflated the regulatory requirement found at 8 C.F.R. § 214.11(g)(1)(iii) with the requirement that applicants reasonably comply with requests for assistance from law enforcement.<sup>1</sup> The Applicant misconstrues our decision. In our decision, we addressed evidence showing the Applicant had contacted an LEA to report his treatment by [REDACTED]. However, we noted that the Applicant had not claimed that an LEA interviewed him after receiving his report of trafficking; rather the Applicant explained it was the nonprofit legal organization that brought the actions of [REDACTED] to authorities and that the authorities subsequently prosecuted [REDACTED] for visa fraud and for unemployment fraud.

As noted above, the physical presence requirement regulation at 8 C.F.R. § 214.11(g)(1)(iii) reaches applicants who escaped trafficking before an LEA became involved. Although the term “involved” is not defined in the regulations, it requires more than passive receipt by law enforcement of a report of trafficking. 3 *USCIS Policy Manual* B.2C(1), <https://www.uscis.gov/policymanual>. This requirement “can be satisfied by demonstrating that an LEA interviewed the applicant or otherwise became involved in detecting, investigating, or prosecuting the trafficking after the applicant escaped.” *Id.* Here, the record does not reflect that an LEA interviewed the Applicant about his reported trafficking claim or that authorities otherwise became involved in detecting, investigating, or prosecuting [REDACTED] for trafficking after he left the company.

Through counsel, Applicant further asserts on motion that we erred in determining that he had not demonstrated that he satisfied the physical presence requirement pursuant to 8 C.F.R. § 214.11(g)(1)(iii), because [REDACTED] was not prosecuted for trafficking. He contends that, as coercion was an element of the visa fraud reported by the nonprofit legal organization, and the authorities’ subsequent investigation into [REDACTED] led to a prosecution of visa fraud, this demonstrates by a preponderance of the evidence, that authorities became involved in the investigation of trafficking after the Applicant left [REDACTED]. In support of this assertion, the Applicant cites to an affidavit prepared by the nonprofit legal organization in the record below describing [REDACTED] employment practices. We acknowledge that this document, which described in detail visa fraud perpetrated by [REDACTED] against a group of Mexican employees, appears to indicate that coercion was a component of this fraud, and that a group of El Salvadoran employees later offered to provide additional information on [REDACTED] labor practices. However, the term “a severe form of trafficking” is defined 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.” 22 U.S.C. § 7102(11) and 8 C.F.R. § 214.11(a). The Applicant does not explain on motion how this document or other evidence in the record below

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<sup>1</sup> See 8 C.F.R. § 214.11(h) (providing that applicants for T nonimmigrant status “must have complied with any reasonable request for assistance in the Federal, State, or local investigation or prosecution of acts of trafficking or investigation of crime where acts of trafficking are at least one central reason for the commission of that crime.”).

demonstrates that the nonprofit organization alerted an LEA to the recruitment of employees for labor through coercion for the purpose of involuntary servitude, or that the LEA subsequently detected, investigated, or prosecuted [REDACTED] for this purpose. Accordingly, the Applicant has not demonstrated that [REDACTED] was prosecuted for trafficking, as defined by statute and regulation, or that our decision was incorrect based upon the evidence in the record of proceedings before us.

### III. CONCLUSION

The Applicant has not established that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. He therefore has not satisfied the requirements for a motion to reconsider pursuant to 8 C.F.R. § 103.5(a)(3).

**ORDER:** The motion is dismissed.