



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

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

In Re: 22530580

Date: APR. 3, 2023

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) and a subsequent motion to reopen and reconsider the adverse decision, concluding that the Applicant did not establish she was a victim of a severe form of trafficking in persons, a threshold requirement for T-1 nonimmigrant classification. We dismissed the Applicant's appeal and a combined motion to reopen and reconsider on the same ground.

The matter is now before us on a second motion to reconsider. Upon review we will dismiss the motion.

I. LAW

As previously discussed, a motion to reconsider must establish that our prior decision was based on an incorrect application of the law or U.S. Citizenship and Immigration Services (USCIS) policy to the evidence in the record at the time of the initial decision. 8 C.F.R. § 103.5(a)(2)-(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the benefit sought.

The term "severe form of trafficking in persons" is defined in relevant part as "sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or 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). Sex trafficking means the "recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act." *Id.*

II. ANALYSIS

We incorporate our previous decisions here by reference, and will only repeat certain facts when necessary to address the Applicant's arguments on motion. We previously determined that the

Applicant did not establish her alleged trafficker, F-M-¹ obtained or harbored her for the purpose of subjecting her to sex trafficking and peonage, as she claimed. In making this determination, we explained that the Applicant's statements concerning her interactions with F-M- lacked detail and consistency and did not support a finding that F-M- harbored her or forced her to stay in his apartment and do housework. We further concluded that even if the Applicant had established that F-M- obtained or harbored her, she did not demonstrate that his purpose in doing so was to subject her to peonage. Regarding the sex trafficking claim, we determined that the Applicant did not show as required that she was recruited, harbored, transported, provided, obtained, patronized, or solicited for the purpose of a commercial sex act.²

The Applicant asserts that in dismissing her motions we erred as a matter of USCIS policy by failing to apply the framework outlined in the USCIS Policy Manual for evaluating claims of involuntary servitude and harboring. Specifically, the Applicant states that we improperly emphasized that she freely agreed to be smuggled into the United States, while according to USCIS Policy Manual "[t]he existence of a voluntary smuggling arrangement does not invalidate the possibility of involuntary servitude arising within the smuggling," and "[i]nvoluntary servitude can include, but is not limited to, domestic servitude and sexual exploitation." *See generally* 3 *USCIS Policy Manual* B.2(B)(4), <https://www.uscis.gov/policy-manual>. She reasserts that her relationship with F-M-, who smuggled her into the United States developed into a trafficking situation with the end of subjecting her to involuntary servitude. The Applicant further states that in finding otherwise we failed to analyze whether her "situation involve[d] compelled or coerced labor or services or forced sexual activity and [was] induced by force, fraud, or coercion," as 3 *USCIS Policy Manual*, *supra*, at B.2(B)(4) instructs. She avers that had we properly evaluated her claims, we would have found that F-M- aimed to subject her to involuntary servitude in the form of household labor by placing her in a state of fear and taking away her agency.

We addressed those claims in our previous decision and concluded that they did not support a finding that the Applicant was placed in a condition of servitude, as she did not explain how the work she performed in F-M-'s apartment amounted to being a servant or a slave, or a prisoner sentenced to forced labor;³ nor did she provide details about how often she was expected to cook or clean for him and the specific circumstances under which she performed those tasks. Thus, we determined that the Applicant did not provide sufficient details to demonstrate that she was in a condition of servitude and that F-M- therefore subjected her to involuntary servitude or, thereby, peonage. Furthermore, we considered the Applicant's statements concerning her alleged trafficking and concluded that they did not indicate that she performed labor for F-M- on account of fraud, force, or coercion. Specifically, the Applicant did not show she was defrauded by F-M-, as she testified that F-M- made numerous romantic advances towards her before she asked him to arrange her travel to the United States, and

¹ We use initials to protect the individual's privacy.

² The Applicant notes that she is not addressing her claim of trafficking for the purpose of commercial act in the instant motion, but incorporates her previous arguments concerning this claim in her brief. As the Applicant does not identify any specific error of law or policy in our determination that she did not establish she was a victim of sex trafficking, we will not address the issue further. *See e.g., Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996) (finding that an issue referred to in an affected party's statement of the case but not discussed in the body of the brief is deemed waived).

³ Although not defined in the Act or the regulations, the term "servitude" 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).

she did not provide specific information about their smuggling agreement. We further concluded that the record also did not show that F-M- used force or threatened serious harm to induce the Applicant to come to the United States or work for him. In particular, while the Applicant asserted for the first time in her previous motion that F-M- threatened he would want his money back if she did not work for him, she did not explain why she did not mention this in her previous declarations; nor did she specify how F-M-'s demands for money would amount to serious harm when she previously indicated she was able to go to her uncle for financial support and protection. The Applicant's statement that she did not leave when F-M- threatened her shows that there were times she lived with F-M- because she felt she could not choose to not pay off her real or imagined debt to him through domestic work for smuggling her into the United States is not sufficient to establish that F-M- subjected her to involuntary servitude.

The Applicant further states that we erred in our analysis of the process F-M- used to put her in a trafficking situation. In support she again cites to USCIS Policy Manual and points out that the term "harboring in the trafficking context refers to the series of actions a trafficker takes to exert and maintain control over a victim by substantially limiting or restricting a victim's movement or agency." 3 *USCIS Policy Manual*, *supra*, at B.2(B)(4). The Applicant references her April 2017 and May 2018 declarations where she indicated that F-M- took actions to control her by getting annoyed when she indicated she would not sleep with him, trying to force her to have sex with her, threatening her, and not giving her a key to the apartment so she would have to wait for him to let her in after returning home from visiting her uncle. We did consider those statements in our prior decisions, but found them insufficient to establish that F-M- harbored the Applicant, given the Applicant's testimony that she was with her son, was able to contact and visit with her uncle, and was free to leave the apartment at any time (although she did not have the key). Lastly, we acknowledge the Applicant's assertion that F-M- used his role in smuggling her into the United States to further control her movements and "attempt to subject her to acts beyond those agreed upon"; however, as she still does not provide details of her smuggling arrangement with F-M- we are unable to meaningfully address it.

As previously discussed, the Applicant has the burden of proof to establish that she is a victim of a severe form of trafficking in persons by a preponderance of any credible evidence; however, we determine, in our sole discretion, the weight to give that evidence. 8 C.F.R. § 214.11(d)(5). We previously evaluated the Applicant's statements and determined that they were not sufficient to support her claim that that F-M- obtained or harbored her through the use of force, fraud, or coercion for the purpose of subjecting her to involuntary servitude, peonage, debt bondage, or slavery and we explained the bases for this determination in our previous decision. We acknowledge that the Applicant disagrees with our analysis; however, she has not shown that we erred as a matter of law or USCIS policy in finding her ineligible for T nonimmigrant classification, and she has not demonstrated that our prior decision dismissing her motion to reopen and reconsider was incorrect based on the evidence in the record of proceedings at the time of the decision. Consequently, she has not established a basis for reconsideration of that decision.

ORDER: The motion to reconsider is dismissed.