



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

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

In Re: 25014493

Date: APRIL 26, 2023

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. sections 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 did not establish that he is the victim of a severe form of trafficking in persons or that he is physically present in the United States on account of such trafficking. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Applicant contends that he has established eligibility for the benefit sought.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *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 a T-1 nonimmigrant if they: are or has been a victim of a severe form of trafficking in persons; 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 the 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 pertinent 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.” 22 U.S.C. § 7102(11); 8 C.F.R. § 214.11(a).

An applicant may submit any credible, relevant evidence for us to consider; however, we determine, in our sole discretion, the value of that evidence. 8 C.F.R. § 214.11(d)(5).

II. ANALYSIS

The Applicant, a citizen of Mexico, last entered the United States in 2010 without being admitted or paroled. In 2018, he filed his T application on the basis that he was the victim of labor trafficking by the individuals who smuggled him into the United States.

A. The Applicant's Trafficking Claim

The Applicant asserts that in 2010, he paid smugglers to arrange his travel to the United States. After entering the United States, the smugglers took the Applicant to a safehouse in [] Texas. Although the Applicant prepaid for his smuggling, the men in control of the safehouse demanded that his family pay more money for his release. The Applicant described his experience in the safehouse as follows:

The safehouse men knew we wouldn't be able to pay. We were all crossing into the United States because we were poor and we were looking to help our families make a better life. We had already paid thousands of dollars to get into the United States. So, they demanded we stay and work, and we could only leave if we paid their \$1600 USD demand. Since I didn't have that money, the traffickers held me hostage and forced me to stay in the safehouse. I was kept there under complete 24-hour surveillance. They forced me to clean and cook for them during every waking hour . . . We were told as a group that if we didn't listen to them or if we ever thought about disobeying, they would send us back to Mexico, or kill us and dump our bodies in the river. They even threatened to kill our families . . . The traffickers were never without large guns. . . . They wanted the hostages to know 24 hours a day that they had the capability to follow through on their threats of death to them and their families . . . After about five days, my brother pulled all of his life savings that he had put away and paid my traffickers' demands. I was only one of three people in the group that had come in who was able to pay for freedom.

B. The Applicant has not Established He is a Victim of a Severe Form of Trafficking in Persons

An applicant seeking to demonstrate that they were a victim of a severe form 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. See 22 U.S.C. § 7102(8); 8 C.F.R. § 214.11(a) (defining the term "severe forms of trafficking in persons"). Thus, an applicant must show both the particular "means" used (force, fraud, or coercion) and that such means was used for a particular "end"—namely for the purpose of subjecting the applicant to involuntary servitude, peonage, or debt bondage. Coercion means, in relevant part, "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" 8 C.F.R. § 214.11(a).

The Director denied the T application, finding that the Applicant had not established that he was a victim of a severe form of trafficking in persons. The Director noted that a smuggling arrangement could turn into human trafficking and acknowledged that the Applicant was required to perform chores

and treated harshly during the smuggling arrangement. However, the Director determined that the events detailed by the Applicant, including his release upon additional payment to the smugglers, did not demonstrate that he was obtained by force, fraud, or coercion for the purpose of forced labor. The Director also concluded that the record did not establish that he was physically present in the United States on account of trafficking, nor that he had complied with reasonable requests for assistance in the investigation or prosecution of acts of severe forms of trafficking in persons.

On appeal, the Applicant asserts that the Director erred by concluding that he was merely smuggled and not fully considering how his smuggling arrangement was transformed into labor trafficking. The Applicant also refers to one of our non-precedent decisions where we found that the T-visa applicant established that he was the victim of a severe form of trafficking even though he originally agreed to be smuggled by the coyotes.¹

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

An applicant seeking to demonstrate that they were a victim of a severe form 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. See 22 U.S.C. § 7102(8); 8 C.F.R. § 214.11(a) (defining the term “severe forms of trafficking in persons”). Thus, an applicant must show both the particular “means” used (force, fraud, or coercion) and that such means was used for a particular “end”—namely for the purpose of subjecting the applicant to involuntary servitude, peonage, or debt bondage. Coercion means, in relevant part, “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” 8 C.F.R. § 214.11(a).

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). The term peonage is defined as “a status or condition of involuntary servitude based upon real or alleged indebtedness.” *Id.* 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).

¹ We note here that this decision was not published as a precedent and therefore does not bind USCIS officers in future adjudications. 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.

Here, the record shows that the Applicant entered into a voluntary agreement under which the smugglers he hired would transport him to the United States. However, the evidence also indicates that after he arrived in the United States, the armed smugglers used force to harbor the Applicant and threatened him to keep him from leaving the safehouse. Accordingly, the record shows that the Applicant was harbored using “threats of serious harm” and “physical restraint,” as required by the definition of coercion at 8 C.F.R. § 214.11(a).

However, a preponderance of the evidence does not demonstrate that the Applicant was the victim of trafficking, as the record does not establish that the smugglers harbored him for the purpose of subjecting him to involuntary servitude. We acknowledge the Applicant’s assertion that the individuals in control of the safe house demanded additional money before releasing him, and that he was kept at the safe house against his will and forced to cook and clean for individuals in the safehouse. We also acknowledge that the Applicant may not have expected to cook and clean during the journey; however, the fact that the Applicant was forced to perform household tasks in the residence that he himself was being housed in is not sufficient to establish that he was harbored for the purpose of subjecting him to a condition of servitude. Further, he has not established that the labor he performed at the safehouse was for any reason other than maintaining the residence until the smuggling arrangements could be completed. In this regard, the Applicant has not established that the smugglers put into place a simultaneous scheme to subject him to involuntary servitude or singled him out to perform labor for other reasons. In addition, the record does not reflect that the smugglers had any scheme or plan to continue harboring the Applicant or subject him to a condition of servitude in the future if his family did not pay. Consistent with that intent, the Applicant was released after his brother paid additional smuggling fees, and the preponderance of the evidence demonstrates that the smugglers harbored the Applicant solely for the purpose of furthering and completing their illegal smuggling agreement.

As such, the circumstances of the Applicant’s case do not show that smugglers transported or harbored him for the purpose of subjecting him to involuntary servitude, as described at 8 C.F.R. § 214.11(a). Accordingly, a preponderance of the evidence does not establish that he is a victim of trafficking in persons, as required by section 101(a)(15)(T)(i)(I) of the Act.

C. Additional Grounds of Eligibility

On appeal, the Applicant contends that he satisfies the remaining eligibility requirements for T nonimmigrant status because he is physically present on account of trafficking, has fully cooperated with law enforcement, and will suffer severe and unusual harm if not permitted to remain in the United States. Because the Applicant has not established that he is the victim of a severe form of trafficking in persons, he cannot establish eligibility for T nonimmigrant status. Moreover, given our finding that the Applicant did not demonstrate that he is the victim of trafficking, he necessarily cannot establish that he is physically present in the United States on account of such trafficking and that he complied with any reasonable request for assistance in the investigation or prosecution of the trafficking as sections 101(a)(15)(T)(i)(II) and (III) requires. Regardless, as our basis for denial is dispositive of the Applicant’s appeal, we decline to reach and hereby reserve the Applicant’s additional appellate arguments regarding the remaining eligibility criteria for T nonimmigrant classification, 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.²

III. CONCLUSION

We recognize the Applicant's claim that he suffered terrible conditions while being smuggled into the United States. Nevertheless, he has not established that he was a victim of a severe form of trafficking during the course of his smuggling. Accordingly, the Applicant is not eligible for T nonimmigrant classification.

ORDER: The appeal is dismissed.

² See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (explaining that “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).