

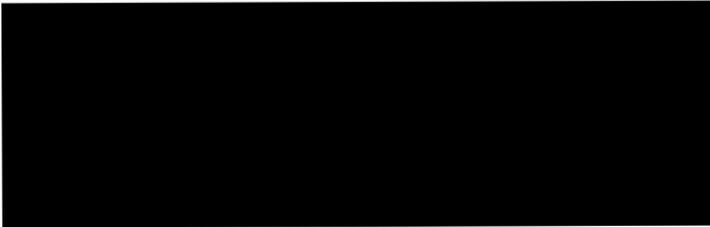
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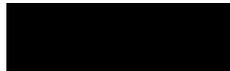


Office: VERMONT SERVICE CENTER

Date: NOV 29 2007

IN RE:

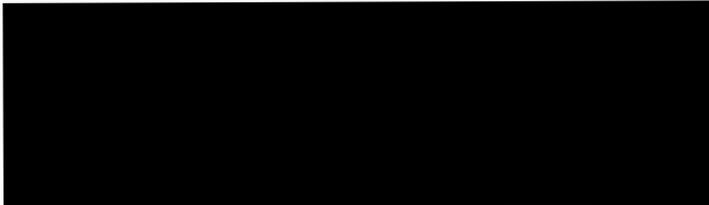
Applicant:



APPLICATION:

Application for T Nonimmigrant Status under section 101(a)(15)(T)(i) and 214(n) of the Immigration and Nationality Act, 8 U.S.C. §§ 1101(a)(15)(T)(i) and 1214(n).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for T nonimmigrant status was denied by the Center Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Philippines who entered the United States on July 28, 2003 pursuant to an H-1B visa in order to be placed in a teaching position. The applicant borrowed funds to pay a large fee to an organization in exchange for employment placement in the United States. However, she was not given a position as quickly as agreed, and she stated that she was compelled to remain with her alleged traffickers throughout a lengthy application process in the United States due to the large debt she incurred to pay their fees and her need for employment. The applicant seeks T nonimmigrant status pursuant to section 101(a)(15)(T)(i) of the Immigration and Nationality Act (the Act) in order to remain in the United States.

The applicant filed a Form I-914, Application for T Nonimmigrant Status, on June 26, 2006. On October 10, 2006, the center director issued a Notice of Intent to Deny the application. The applicant filed a response to the notice of intent to deny, yet the center director found that the applicant failed to overcome all of the issues addressed in the notice and denied the application accordingly. *Decision of the Center Director*, dated March 23, 2007. Specifically, the director found that the applicant failed to show that: (1) she is a victim of a severe form of trafficking in persons; (2) her physical presence in the United States is on account of a severe form of human trafficking in persons, and; (3) she would suffer extreme hardship involving unusual and severe harm should she return to the Philippines.

On appeal, counsel for the applicant asserts that the center director failed to give adequate weight to the evidence provided by the applicant. *Brief from Counsel* at 4-15. Counsel contends that the record shows that the applicant was subjected to debt bondage, involuntary servitude and peonage, and thus she was a victim of human trafficking. *Id.* at 15-20. Counsel asserts that the applicant is in the United States on account of the trafficking scheme to which she was subjected. *Id.* at 25. Counsel contends that the applicant will suffer extreme hardship involving unusual and severe harm should she be removed from the United States. *Id.* at 20-25.

#### **Evidence of Record**

The record contains: a brief from counsel; statements from the applicant; a copy of the applicant's Form I-94, Departure Record; a Form I-914, Supplement B – Declaration of Law Enforcement Officer for Victim of Trafficking in Persons; a letter reflecting that the applicant was granted Deferred Action by U.S. Customs and Immigration Enforcement (ICE); a copy of an indictment against the applicant's alleged traffickers; a copy of a subpoena calling the applicant to testify in U.S. District Court against her alleged traffickers; a copy of a press release issued by the U.S. Department of Justice; copies of news articles; a copy of an employment letter for the applicant; a copy of a promissory note and documentation in connection with the applicant's loan with Blue Pacific Holdings, Inc.; copies of two collection letters from Blue Pacific Holdings issued to an unidentified recipient; a collection letter from Blue Pacific Holdings issued to the applicant and the co-signor of her loan; invoices for fees from an organization called Multicultural Professionals, LLC; reports on human trafficking and conditions in the Philippines; information on debt law in the Philippines; a list of the applicant's monthly expenses in the United States; copies of invoices for medical services for the applicant; a copy of a document that reflects that the applicant agreed to a payment plan for medical expenses; a banking record for the applicant; a copy of the applicant's marriage certificate, and; copies of wire transfer receipts

reflecting that the applicant wired funds to the Philippines. The entire record was reviewed and considered in rendering a decision on the appeal.

### Applicable Law

Section 101(a)(15)(T) of the Act provides, in pertinent part, that an applicant may be classified as a T-1 nonimmigrant if he or she is:

- (i) [S]ubject to section 214(o), an alien who the Attorney General [now Secretary of Homeland Security (Secretary)] determines --
  - (I) is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,
  - (II) is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking,
  - (III) (aa) has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, [and] . . .
  - (IV) the alien would suffer extreme hardship involving unusual and severe harm upon removal . . .

A successful section 101(a)(15)(T) application is dependent first upon a showing that the applicant is a victim of a severe form of trafficking in persons. According to the Trafficking Victims Protection Act, 22 U.S.C. § 7102(8), the term “severe forms of trafficking in persons” means:

- A. 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 has not attained 18 years of age; or
- B. 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 regulations at 8 C.F.R. § 214.11(f) provide specific guidelines on evidence that may be provided to support an applicant’s contention that she is a victim of a severe form of trafficking. The regulations state:

(f) *Evidence demonstrating that the applicant is a victim of a severe form of trafficking in persons.* The applicant must submit evidence that fully establishes eligibility for each element of the T nonimmigrant status to the satisfaction of the Attorney General. First, an alien must demonstrate that he or she is a victim of a severe form of trafficking in persons. The applicant may satisfy this requirement either by submitting an LEA endorsement, by demonstrating that the Service previously has arranged for the alien's continued presence under 28 [C.F.R. §]

1100.35, or by submitting sufficient credible secondary evidence, describing the nature and scope of any force, fraud, or coercion used against the victim (this showing is not necessary if the person induced to perform a commercial sex act is under the age of 18). An application must contain a statement by the applicant describing the facts of his or her victimization. In determining whether an applicant is a victim of a severe form of trafficking in persons, the Service will consider all credible and relevant evidence.

(1) *Law Enforcement Agency endorsement.* An LEA endorsement is not required. However, if provided, it must be submitted by an appropriate law enforcement official on Supplement B, *Declaration of Law Enforcement Officer for Victim of Trafficking in Persons*, of Form I-914. The LEA endorsement must be filled out completely in accordance with the instructions contained on the form and must attach the results of any name or database inquiry performed. In order to provide persuasive evidence, the LEA endorsement must contain a description of the victimization upon which the application is based (including the dates the severe forms of trafficking in persons and victimization occurred), and be signed by a supervising official responsible for the investigation or prosecution of severe forms of trafficking in persons. The LEA endorsement must address whether the victim had been recruited, harbored, transported, provided, or obtained specifically for either labor or services, or for the purposes of a commercial sex act. The traffickers must have used force, fraud, or coercion to make the victim engage in the intended labor or services, or (for those 18 or older) the intended commercial sex act. The situations involving labor or services must rise to the level of involuntary servitude, peonage, debt bondage, or slavery. The decision of whether or not to complete an LEA endorsement for an applicant shall be at the discretion of the LEA.

(2) *Primary evidence of victim status.* The Service will consider an LEA endorsement as primary evidence that the applicant has been the victim of a severe form of trafficking in persons provided that the details contained in the endorsement meet the definition of a severe form of trafficking in persons under this section. In the alternative, documentation from the Service [CIS] granting the applicant continued presence in accordance with 28 [C.F.R. §] 1100.35 will be considered as primary evidence that the applicant has been the victim of a severe form of trafficking in persons, unless the Service has revoked the continued presence based on a determination that the applicant is not a victim of a severe form of trafficking in persons.

(3) *Secondary evidence of victim status; Affidavits.* Credible secondary evidence and affidavits may be submitted to explain the nonexistence or unavailability of the primary evidence and to otherwise establish the requirement that the applicant be a victim of a severe form of trafficking in persons. The secondary evidence must include an original statement by the applicant indicating that he or she is a victim of a severe form of trafficking in persons; credible evidence of victimization and cooperation, describing

what the alien has done to report the crime to an LEA; and a statement indicating whether similar records for the time and place of the crime are available. The statement or evidence should demonstrate that good faith attempts were made to obtain the LEA endorsement, including what efforts the applicant undertook to accomplish these attempts. Applicants are encouraged to provide and document all credible evidence, because there is no guarantee that a particular piece of evidence will result in a finding that the applicant was a victim of a severe form of trafficking in persons. If the applicant does not submit an LEA endorsement, the Service will proceed with the adjudication based on the secondary evidence and affidavits submitted. A non-exhaustive list of secondary evidence includes trial transcripts, court documents, police reports, news articles, and copies of reimbursement forms for travel to and from court. In addition, applicants may also submit their own affidavit and the affidavits of other witnesses. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Service.

(4) *Obtaining an LEA endorsement.* A victim of a severe form of trafficking in persons who does not have an LEA endorsement should contact the LEA to which the alien has provided assistance to request an endorsement. If the applicant has not had contact with an LEA regarding the acts of severe forms of trafficking in persons, the applicant should promptly contact the nearest Service or Federal Bureau of Investigation (FBI) field office or U.S. Attorneys' Office to file a complaint, assist in the investigation or prosecution of acts of severe forms of trafficking in persons, and request an LEA endorsement. If the applicant was recently liberated from the trafficking in persons situation, the applicant should ask the LEA for an endorsement. Alternatively, the applicant may contact the Department of Justice, Civil Rights Division, Trafficking in Persons and Worker Exploitation Task Force complaint hotline at 1-888-428-7581 to file a complaint and be referred to an LEA.

Debt bondage is defined at 8 C.F.R. § 214.11(a) as:

[T]he status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Involuntary servitude is defined at 8 C.F.R. § 214.11(a):

Involuntary servitude means 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 the abuse or threatened abuse of legal process. Accordingly, 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 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.

Peonage is defined at 8 C.F.R. § 214.11(a) as “[a] status or condition of involuntary servitude based upon real or alleged indebtedness.”

The term “slavery” is not defined under section 101 of the Act or the regulations that control applications for T status. Nor are there any precedent decisions from a court or administrative body with binding authority over the present proceeding that provide a definition of slavery for the purpose of adjudicating an application for T status. However, common notions of slavery involve the performance of labor. For example, The American Heritage Dictionary of the English Language, Fourth Edition, defines “slavery” as:

1. The state of one bound in servitude as the property of a slaveholder or household.
2.
  - a. The practice of owning slaves.
  - b. A mode of production in which slaves constitute the principal workforce.
3. The condition of being subject or addicted to a specified influence.
4. A condition of hard work and subjection: *wage slavery*.

"Slavery," *The American Heritage Dictionary of the English Language*, (4<sup>th</sup> ed., Houghton Mifflin Company 2004) <<http://dictionary.reference.com/browse/slavery>> (accessed July 18, 2007). Webster's New World College Dictionary defines slavery as:

1 the owning or keeping of slaves as a practice or institution; slaveholding 2 the condition of being a slave; bondage; servitude 3 a condition of submission to or domination by some influence, habit, etc. 4 hard work or toil like that done by slaves; drudgery

*Webster's New World College Dictionary* 1347 (4<sup>th</sup> ed., IDG Books Worldwide, Inc. 2001). In the context of the present proceeding, slavery is listed as one of four harms that may serve as a basis for T status, in addition to involuntary servitude, peonage, and debt bondage. Trafficking Victims Protection Act, 22 U.S.C. § 7102(8). In light of the fact that involuntary servitude, peonage, and debt bondage each involve labor to be performed by the victim, and in light of the fact that slavery is commonly understood to denote a condition of forced labor, the AAO finds that to meet the definition of slavery as contemplated by the Trafficking Victims Protection Act, 22 U.S.C. § 7102(8), an applicant must establish that she was held in a condition that involved her involuntary labor for her captors.

### Facts

The applicant submitted a Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, Form I-914 Supplement B, (Law Enforcement Agency [LEA] Endorsement.) This document was approved by a law enforcement officer on April 12, 2006. The document explains that the applicant was “recruited,

transported, and obtained in the Philippines by . . . indicted traffickers for labor,” and that “[t]he traffickers used fraud and coercion, including deceiving [the applicant] into taking out a loan she is unable to repay and lying to [the applicant] about the availability of employment.” *LEA Endorsement*, dated April 12, 2006. The LEA Endorsement indicates that, although the traffickers were not charged specifically with trafficking, they have been charged with Conspiracy/Alien Smuggling/Visa Fraud under 18 U.S.C. § 371, Alien Smuggling for Profit under 18 U.S.C. § 1324(a)(2)(B)(ii), Encouraging and Inducing Alien Smuggling under 8 U.S.C. § 1324(a)(1)(A)(iv), Transportation of Aliens under 8 U.S.C. § 1324(a)(i)(A)(ii), Harboring Aliens under 8 U.S.C. § 1324(a)(1)(A)(ii), Wire Fraud/Mail Fraud Conspiracy under 18 U.S.C. § 1349, 1343, and 1342, Mail Fraud under 18 U.S.C. § 1342, Wire Fraud under 18 U.S.C. § 1343, and Money Laundering Conspiracy under 18 U.S.C. § 1956(a)(1)(A)(i), (B)(i), and (h). *Id.* at 1, 3.

The LEA Endorsement reports that the applicant was induced to borrow funds at a 60% interest rate to pay fees of \$10,000 to \$12,000. *Id.* at 3. The LEA Endorsement states that “[t]he traffickers used force, fraud and coercion by arranging for a loan from ██████████ in the Philippines for [the applicant.]” *Id.* The LEA Endorsement indicates that “[t]he loan from ██████████ for by the traffickers held [the applicant] in peonage, believing that the only possibility of repaying the debt was if she remained with the traffickers and performed the labor they arranged.” *Id.* The LEA Endorsement states that the applicant was required to use a family member in the Philippines as a co-maker of the loan, and that such family member would face consequences with Philippine authorities should the applicant fail to repay the loan. *Id.* at 3-4. The LEA Endorsement explains that the applicant’s debt has grown to approximately \$ ██████████ since her arrival in the United States. *Id.* The LEA Endorsement provides that the traffickers coerced the applicant by using the threat of deportation and the applicant’s belief that they controlled her immigration status and access to paid employment. *Id.* at 3.

The LEA Endorsement explains that the traffickers instructed the applicant and other victims not to seek assistance from law enforcement because they would be arrested and deported to the Philippines where they would face mounting debt. *Id.*

The LEA Endorsement indicates that the applicant fears retaliation from Blue Pacific Holdings or imprisonment by Philippine authorities due to her debt in the Philippines and the influence of her traffickers. *Id.*

The LEA Endorsement indicates that the applicant has complied with all requests to assist with the investigation of her traffickers. *Id.* at 2.

The applicant further provided documentation from ICE granting her Deferred Action. Thus, the applicant has presented primary evidence that she has been the victim of a severe form of trafficking in persons, and such documentation is given careful consideration.

As secondary evidence, the applicant submitted statements in which she explains her experiences. The applicant provided that she sought to teach in the United States, and she attended an employment seminar for teachers in the Philippines operated by ██████████ acting as the primary representative. *Statement from the Applicant*, dated June 15, 2006 ██████████ offered an opportunity for teachers to work in the United States for approximately \$ ██████████ per month. *Id.* at 1. The applicant explained that she paid fees for testing and was interviewed and offered a job in the United States. *Id.* at 1-2.

The applicant stated that she took a loan of \$11,585.38 with [REDACTED] in the Philippines at the suggestion of [REDACTED] *Id.* at 2-3. The applicant provided that she was required to have a co-signor for her loan, and that her friend in the Philippines acted as her co-signor. *Id.* at 3.

The applicant stated that she attended a final seminar in the Philippines with approximately 200 teachers bound for the United States. *Id.* The applicant heard a rumor that some teachers who had been recruited by [REDACTED] were not given jobs in their designated school district once they arrived in the United States, and they were compelled to apply for alternate jobs. *Id.*

The applicant stated that she arrived in the United States on July 28, 2004. *Id.* at 4. The applicant became aware several days after arriving that [REDACTED] did not have a secure job for her. *Id.* [REDACTED] son, [REDACTED] assured the applicant that [REDACTED] was looking for a job for her. *Id.*

The applicant stated that she was dependent on [REDACTED] for transportation and lodging, and she felt that she could not leave due to her debt. *Id.* at 5. The applicant explained that she did not have enough money to purchase a plane ticket to return to the Philippines. *Id.* The applicant stated that [REDACTED] transported her and other teachers to Florida and Washington, DC to search for employment. *Id.* at 5-6. The applicant explained that she lived in crowded conditions, and that in the Washington, DC area she was compelled to reside with other teachers in a grocery store. *Id.* at 6. The applicant provided that she was charged five dollars per day for her accommodations, and she had to purchase an air mattress so not to have to sleep on the concrete floor of the store. *Id.*

The applicant was transported to McAllen, Texas where she resided in the [REDACTED]. *Id.* She explained that she attended a job fair in Laredo, Texas, and she was offered a teaching position. *Id.*

The applicant stated that she worked in [REDACTED] from August 16, 2004 to May 30, 2005, and she saw [REDACTED] approximately three times during that period. *Id.* She indicated that she was not under [REDACTED] immediate control, but that she and her co-signor began receiving letters from Blue Pacific reporting that the applicant owed them money. *Id.* at 8. The applicant stated that she made payments to Blue Pacific, but that she still owes \$12,000. *Id.* She expressed fear that [REDACTED] will take action against her or her co-signor if she does not repay the funds she borrowed. *Id.*

The applicant stated that the government of the Philippines will not protect her from re-victimization. *Id.* The applicant indicated that Omni and Blue Pacific are connected to the Philippine government, and thus she would not be protected from them. *Id.*

The applicant stated that her circumstances caused her significant emotional distress. *Id.* at 6. She explained that her concern regarding her debt, her lack of employment, her separation from her family, and her frequent relocation caused her sleeplessness, stomach ailments, high blood pressure, and exhaustion. *Id.* at 8.

In a separate statement, the applicant indicated that [REDACTED] told her that Blue Pacific was the only company with which she could obtain a loan to pay [REDACTED] fees. *Statement from the Applicant, dated January 4, 2007.* The applicant asserted that she believed that [REDACTED] "had some form of relationship to [REDACTED] and [REDACTED] but [she] did not know the extent of the relationship or how intertwined the companies were." *Id.* at 1. The applicant stated that she believed that if she did not abide by [REDACTED] rules, she "would be subject to huge debt under Blue Pacific." *Id.* The applicant explained that her alleged

traffickers held her passport and visa until she “was able to pay off all of [her] expenses to [redacted] with the money [she] was required to borrow from Blue Pacific.” *Id.* The applicant noted that [redacted] released the proceeds of her loan directly to Omni, and that she only received approximately \$73. *Id.* at 2.

The applicant stated that she was aware of a teacher who left [redacted] in the United States, and who was made to sign a waiver releasing [redacted] from responsibility if something happened to her. *Id.* at 3. The applicant noted that [redacted] claimed that she could have teachers who departed [redacted] and that this fact contributed to her remaining under [redacted] control. *Id.*

The applicant stated that, when she obtained a teaching position, [redacted] had arranged for her to attend the job fair and advised her that she needed to file a new H-1B petition to receive authorization for her alternate location. *Id.*

The applicant explained that she had contact with a representative of Blue Pacific, and that the representative indicated that [redacted] would sue teachers in the Philippines who did not make payments on their loans. *Id.* The applicant indicated that she makes regular payments on her loan, and she has been sent bills and notices threatening legal action if she does not make payments. *Id.* at 4. The applicant stated that she fears Omni and [redacted] have the ability to harass her, her friends, and her family members should she return to the Philippines. *Id.*

Counsel asserts that the center director failed to give adequate weight to the evidence provided by the applicant. *Brief from Counsel* at 4-15. Counsel contends that the record shows that the applicant was subjected to debt bondage, involuntary servitude and peonage, and thus she was a victim of human trafficking. *Id.* at 15-20. Counsel highlights evidence provided by the applicant, including the LEA Endorsement, the indictment against the applicant’s traffickers, and a News Release from the U.S. Attorney’s Office. *Id.* at 4-15.

Counsel emphasizes that the applicant was in the United States without employment as agreed, and thus she was compelled by Omni to seek a job for approximately one year in order to repay her debt. Counsel asserts the following:

Here, Defendants constructed a scheme to cause Applicant to believe that if she did not obey the commands of Defendants and actively seek a teaching job as instructed by Defendants, if she did not perform the labor and services demanded by Defendants, and if she did not repay Defendants her alleged debts, then Defendants would have Applicant arrested by immigration, have her visa cancelled, and have her deported to the Philippines, where she or her friend would suffer possible imprisonment for debts that she would never be able to repay back home.

*Id.* at 19. Counsel states that [redacted] and [redacted] kept the applicant under their control through nonviolent coercion, which is recognized as sufficient coercion to support a trafficking claim. *Id.* at 19 (citing 22 U.S.C. §§ 7101(b)(7) and (b)(13)). Counsel cites 18 U.S.C. § 1589 to support that [redacted] threats of having the applicant deported may support a finding of involuntary servitude. *Id.*

Counsel asserts that the applicant is in the United States on account of the trafficking scheme to which she was subjected. *Id.* at 25.

Counsel contends that the applicant will suffer extreme hardship involving unusual and severe harm should she be removed from the United States. *Id.* at 20-25. Counsel asserts that the applicant requires access to the U.S. criminal and civil justice systems in order to seek redress from her traffickers. *Id.* at 21-22.

Counsel further states that there is a likelihood that the applicant's traffickers or others acting on their behalf would severely harm the applicant. *Id.* at 22. Counsel contends that the applicant's alleged traffickers harassed her and her friend after the applicant escaped them. *Id.* Counsel references documentation that shows that the applicant owes funds to her alleged traffickers as evidence that she would be harmed in the Philippines should she fail to repay her debt. *Id.* at 23. Counsel asserts that the applicant received frequent messages from Blue Pacific threatening her if she did not make payments. *Id.* at 25. Counsel asserts that the applicant could be jailed in the Philippines due to her outstanding debt, where she may be subjected to harsh and life-threatening conditions. *Id.*

### Analysis

Upon review, the applicant has not established that she has been the victim of a severe form of trafficking in persons. The record shows that [REDACTED] deceived the applicant by collecting a high fee from her in exchange for a teaching position that did not yet exist. The applicant traveled to the United States pursuant to this fraudulent scheme. However, the applicant has not established that she was brought to the United States "for the purpose of" subjection to involuntary servitude, peonage, debt bondage, or slavery." Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(B)(emphasis added).

The applicant has not shown that [REDACTED] subjected her to debt bondage. The applicant submitted documentation to show that she borrowed money from an institution in the Philippines, [REDACTED], in order to pay a fee to [REDACTED]. The applicant has not established by a preponderance of the evidence that [REDACTED], such that the debt was in fact owed to Omni or [REDACTED]. The applicant asserts that Omni required her to take a loan with [REDACTED]. Yet, while [REDACTED] facilitated the applicant's loan with [REDACTED], the record does not reflect that the applicant's debt was owed to Omni. The applicant described collection efforts carried out by agents of Blue Pacific, but she did not indicate that [REDACTED] or [REDACTED] sought to collect payments from her for the funds she owed to [REDACTED]. The record suggests that [REDACTED]'s interest in the applicant's loan from [REDACTED] ended when they received the proceeds in satisfaction of their placement fees.

It is evident that the applicant required employment in order to repay her debt to [REDACTED] and that [REDACTED] and [REDACTED] were aware of this fact. Thus, the applicant's relationship with and dependence on [REDACTED] and [REDACTED] were impacted by her debt to [REDACTED]. However, the applicant did not pledge her personal service to [REDACTED] as security for a debt she owed to them. 8 C.F.R. § 214.11(a). Accordingly, [REDACTED] did not hold the applicant in debt bondage, as defined by 8 C.F.R. § 214.11(a).

The condition of involuntary servitude requires that "the victim is forced to work for the defendant." 8 C.F.R. § 214.11(a). The condition of peonage also requires that the victim is compelled to work for the perpetrator, as it is "[a] status or condition of involuntary servitude." *Id.* Further, as discussed above, in the context of proceedings for T status, slavery constitutes a condition that involves involuntary labor.

The applicant has not established that [REDACTED] subjected her to involuntary servitude, peonage, or slavery. In fact, the applicant agreed to accept employment through [REDACTED] and was denied the opportunity to perform work for approximately one year. To establish that she was subjected to involuntary servitude, peonage, or slavery, the applicant does not have to show that she in fact performed work for [REDACTED]. Yet, she must, at a minimum, show that [REDACTED] brought her to the United States *for the purpose* of subjection to involuntary servitude, slavery, or peonage. Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(B). The record reflects that [REDACTED] brought the applicant to the United States in order to collect a large placement fee from her, and to place her into a teaching position.

Counsel contends that the applicant was compelled to perform labor that constituted involuntary servitude, as [REDACTED] forced her to engage in tasks related to [REDACTED] effort to secure employment for her. However, the applicant has not shown by a preponderance of the evidence that she performed such tasks against her will due to coercion by [REDACTED]. The applicant entered into a lengthy recruitment process with [REDACTED] in the Philippines so that she might obtain a teaching position in the United States. The record clearly reflects that the applicant had an intention to work in the United States as a teacher, and she was willing to invest significant time and resources to achieve her goal. The applicant's continued efforts in this regard in the United States, while unexpected and under difficult circumstances, were in furtherance of her original goal. The applicant ultimately obtained a teaching position.

The AAO acknowledges that [REDACTED] failed to honor its agreement to place the applicant into a teaching position immediately upon her arrival in the United States. The AAO further acknowledges that the applicant's circumstances and living conditions were difficult, in that she was separated from her family, she was facing the realization that [REDACTED] did not have a job arranged for her, she owed a large debt in the Philippines, and she required employment in order to meet her obligation. However, the record does not show that the applicant performed tasks that constituted labor for [REDACTED]. Traveling to interview sites and engaging in a job application process is not found to be labor that accrued benefits to [REDACTED] Tolentino or [REDACTED]. Such tasks were performed by the applicant in an effort to achieve her initial goal of securing employment in the United States. The record does not reflect that, but for the coercion of [REDACTED] and [REDACTED] the applicant would not have chosen to continue her efforts to apply for teaching positions in the United States.

The AAO acknowledges that the placement fees charged by [REDACTED] were significant. It is further acknowledged that the applicant borrowed funds at a high rate of interest to pay the fees. Yet, the record suggests that [REDACTED] did intend to arrange employment for the applicant. The applicant stated that other Filipino teachers who were brought to the United States by [REDACTED] were in fact given teaching positions, and [REDACTED] did eventually secure a teaching position for the applicant through a job fair. The applicant has not shown that *Omni* compelled her, or intended to compel her, to perform work against her will.

The AAO notes that an LEA Endorsement serves as primary evidence of victim status, though it is not, by itself, conclusive evidence that the applicant has been a victim of a severe form of human trafficking. Citizenship and Immigration Services ("CIS") is not required to accept the endorsement as conclusive evidence of a human trafficking incident. In the present matter, while the AAO gives careful consideration to the submitted LEA Endorsement, the AAO does not find it to be conclusive evidence that the applicant was the victim of a severe form of trafficking in persons in light of the other evidence in the record. The LEA Endorsement contends that agents of [REDACTED] have not been charged with human trafficking, yet they have been charged with multiple crimes that constitute the essential elements of trafficking in persons. However, the

LEA Endorsement does not list the elements of human trafficking, or analyze how the crimes charged satisfy those elements. The LEA Endorsement does not state that agents of [REDACTED] have been charged with crimes related to compulsory labor or holding individuals against their will. It is further noted that, while the record shows that agents of [REDACTED] have been indicted for crimes, the applicant has not submitted evidence to show that they were in fact convicted. The AAO may not treat an indictment as evidence of guilt, or proof that alleged facts occurred.

Counsel references a notice from the U.S. Attorney's Office regarding the indictments against [REDACTED] and certain school districts. However, this document does not report that [REDACTED] engaged in trafficking of persons. It specifically stated that "[a]n indictment is a formal accusation of criminal conduct, not evidence of guilt. The defendants are presumed innocent unless and until convicted through due process of law." *U.S. Attorney's Office Memorandum*, at 2, dated October 22, 2004. While the memorandum suggests that agents of [REDACTED] engaged in wrongdoing, it does not serve as evidence that the applicant was a victim of human trafficking.

The record supports that agents of [REDACTED] have committed immigration-related violations and engaged in deception. The AAO further acknowledges that agents of [REDACTED] used coercion against the applicant to discourage her from leaving their control and to limit her independence, such as warning her that her immigration status depends on them and using the threat of deportation. Yet, the applicant has not established that they subjected her to, or intended to subject her to, involuntary servitude, peonage, debt bondage, or slavery.

Based on the foregoing, the applicant has failed to submit sufficient evidence to show that she has been the victim of a severe form of trafficking in persons. Section 101(a)(15)(T)(i)(I) of the Act.

As the applicant has failed to establish that she has been the victim of a severe form of trafficking in persons, she has failed to show that she is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking. Section 101(a)(15)(T)(i)(II) of the Act. The record shows that the applicant traveled to the United States pursuant to a employment scheme that involved deception, immigration violatons, and high fees, yet she has failed to show that the scheme involved a severe form of trafficking in persons, as discussed above.

Further, the applicant has failed to establish that she would suffer extreme hardship involving unusual and severe harm upon return to the Philippines, as required by section 101(a)(15)(T)(i)(IV) of the Act. The applicant expressed fear that agents of [REDACTED] may retaliate against her or her family members for her cooperation with U.S. law enforcement agents. Yet, the applicant has not clearly explained what retaliation she fears. The applicant has not described any incidents in which agents of [REDACTED] used or threatened physical force, against her or others. The applicant has not described any incidents in which teachers recruited by [REDACTED] returned to the Philippines and were harmed.

The applicant stated that she fears legal action from Blue Pacific. Yet, the applicant has not established that the institution was party to [REDACTED] actions, such that the loan is not a legitimate debt. Facing legal action due to a legitimate debt is not deemed "extreme hardship involving unusual and severe harm," as contemplated by section 101(a)(15)(T)(i)(IV) of the Act. The applicant submitted transcripts of payment reminders and collection efforts from Blue Pacific. Yet, none of the statements or letters from Blue Pacific agents fell outside the bounds of ordinary collection activities, including threats of legal action if necessary.

Counsel asserts that the applicant requires access to the U.S. criminal and civil justice systems in order to seek redress from her alleged traffickers. Yet, the record contains no evidence to reflect that the applicant has made preparations for or anticipated filing a lawsuit. The applicant has not filed a civil complaint against Omni, Blue Pacific, or their agents, thus her departure from the United States would not disrupt any pending action.

Counsel asserts that, due to the applicant's indebtedness, she is at risk of being re-victimized should she return to the Philippines. However, the record suggests that the applicant was a teacher in the Philippines prior to her arrival in the United States. The applicant has not shown that she would be unable to continue her employment as a teacher. Nor has the applicant provided documentation to show her previous or prospective compensation as a teacher in the Philippines, such that the AAO can assess her potential financial means. Nor has the applicant provided an account of her estimated regular expenses in the Philippines that would allow the AAO to determine whether she would have adequate means of subsistence while repaying her debt.

The applicant has not explained whether her husband works in the Philippines, or if so, what is his income. The record does not show that the applicant's husband relies on her for support, or that he lacks independent resources that may be used to help support the applicant's household should she return.

Without adequate documentation and information, the AAO cannot conclude that the applicant would endure financial hardship that would place her at risk of re-victimization. Nor has the applicant established that she would suffer economic hardship that itself would constitute extreme hardship involving unusual and severe harm.

The record does not support that [REDACTED] or her associates are inclined to take retribution against the applicant including serious physical harm. Counsel stated that the applicant and the co-maker of her loan were contacted regarding the applicant's debt. Yet, the applicant has not indicated that she or her co-maker have been threatened with violence. The record suggests that the applicant's son and husband have continued to reside in the Philippines throughout the applicant's stay in the United States. Yet, the applicant has not indicated that her husband or son have been contacted, threatened, or harmed in any way by [REDACTED] or her associates. Thus, the applicant has not established that she is at risk of physical harm should she return to the Philippines.

Counsel asserts that the applicant may be subjected to legal action in the Philippines due to her outstanding debt. However, the applicant has not shown that the deception perpetrated against her by [REDACTED] and her associates could not be asserted as a successful defense to any efforts they may make to collect funds from her. The applicant has not established that legitimate collection actions by her creditors who are unrelated to the deception committed by Omni should serve as the basis for a finding that the applicant would experience extreme hardship involving unusual and severe harm, as contemplated by section 101(a)(15)(T)(i)(IV) of the Act.

The applicant has not articulated any other factors that would result in extreme hardship involving unusual and severe harm should she return to the Philippines, thus she has not satisfied the requirements of section 101(a)(15)(T)(i)(IV) of the Act.

### **Conclusion**

Based on the foregoing, the applicant has not established that she has been a victim of a severe form of trafficking in persons, or that her physical presence in the United States is on account of a severe form of human trafficking in persons, as required by sections 101(a)(15)(T)(i)(I) and (II) of the Act. Nor has the applicant shown that she would experience extreme hardship involving unusual and severe harm should she be removed from the United States, as required by section 101(a)(15)(T)(i)(IV) of the Act. Accordingly, the applicant has not shown that she is eligible for T status.

In proceedings regarding an application for T nonimmigrant status under section 101(a)(15)(T)(i) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.