



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

VERMONT SERVICE CENTER

Date: JUL 30 2007

IN RE:

Applicant:

[REDACTED]

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:

[REDACTED]

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 last entered the United States on September 20, 2002 pursuant to a B-1/B-2 visa, in order to serve as a live-in domestic worker in a private home. The applicant indicated that she borrowed funds from her family in order to pay an approximately \$5,000 fee associated with her immigration processing and travel to the United States. The applicant stated that her employers made her reside in unfavorable conditions, they restricted her activities and communication, and they failed to provide her with adequate medical care when she reported symptoms of illness. The applicant explained that one of her employers treated her abusively when she informed them that she was leaving. The applicant's mother fears that the applicant will be harmed if she returns to the Philippines due to her employers' connections to government officials there. 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 August 24, 2006. On September 26, 2006, the center director issued a letter informing the applicant of his intent to deny the application, requesting that the applicant provide additional evidence to support her claim. The applicant provided additional documentation, yet the center director found that the applicant failed to overcome the issues addressed in the notice of intent to deny and denied the application accordingly. *Decision of the Center Director*, dated December 1, 2006. Specifically, the director found that the applicant failed to show that: (1) the applicant is a victim of a severe form of trafficking in persons; (2) the applicant's physical presence in the United States is on account of a severe form of human trafficking in persons, and; (3) the applicant would suffer extreme hardship involving unusual and severe harm upon removal.

On appeal, counsel for the applicant contends that that applicant has submitted sufficient evidence to establish that she was a victim of human trafficking, and that the applicant is eligible for a T visa. *Statement from Counsel on Appeal*, submitted December 29, 2006.

The record contains statements from the applicant; copies of the applicant's visa, Form I-94, and passport; a statement from counsel; an evaluation of the applicant from a licensed psychologist; a statement from the applicant's adoptive mother; documentation in connection with the applicant's contact with law enforcement officers; a copy of an employment agreement between the applicant and her employers; a document that lists the locations where the applicant worked in the United States; a timeline that summarizes the facts of the applicant's case; copies of payment stubs allegedly documenting payments made to the applicant under the name of another individual; documentation in connection with the applicant's medical treatment; documentation regarding conditions in the Philippines, and; a letter from the Department of Health and Human Services ("HHS") certifying the applicant as eligible for benefits under the Trafficking Victims Protection Act of 2000. The entire record was reviewed and considered in rendering a decision on the appeal.

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*, (4th 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 (4th 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.

The applicant has not submitted a Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, Form I-914 Supplement B, documentation from U.S. Immigration and Customs Enforcement ("ICE") granting her continued presence in accordance with 28 C.F.R. § 1100.35, or other primary evidence that she is a victim of a severe form of human trafficking.

The applicant submitted a letter from HHS certifying that she has been a victim of human trafficking. However, the determination of victim status by HHS is based on its own rules and process for the purpose of determining the applicant's eligibility for HHS services. HHS's determination is not conclusive evidence of victim status for the purpose of establishing eligibility for T status under section 101(a)(15)(T) of the Act, and it is not binding on CIS. It is further noted that the HHS letter does not provide any analysis of the applicant's situation to support its determination. While CIS gives the HHS letter due consideration as primary evidence of victim status, it is not conclusive evidence that the applicant has met the requirements of section 101(a)(15)(T)(i)(I) of the Act.

As secondary evidence, the applicant submitted statements in which she explains the facts of her case. The applicant stated that, in 2001, her father's aunt introduced her to M [REDACTED], who was a former

mayor of her town. *Statement from Applicant* at 1, undated. [REDACTED] questioned the applicant regarding her job skills, such as whether she can cook, clean, care for an elderly lady, and arrange flowers. *Id.* [REDACTED] informed the applicant that she could travel to the United States to care for the elderly mother of a doctor. *Id.* The applicant indicated that one of her employers [REDACTED] determined with [REDACTED] that the applicant would be paid a salary of \$500¹, and an additional \$500 would be sent to the applicant's father's aunt to cover the funds borrowed by the applicant. *Id.* at 2.

The applicant indicated that she traveled to Princeton, New Jersey, and on arriving at the residence of her employers, [REDACTED] and [REDACTED], she found that the house was in disarray. *Id.* at 1-2. [REDACTED] informed the applicant that she would be cooking, and cleaning the house on at least Monday and Friday. *Id.* at 2. The applicant stated that she paid funds to [REDACTED] for processing immigration paperwork to come to the United States. *Id.* She provided that she understood that eventually she would work at [REDACTED]'s office, Pediatrics by Day and Night. *Id.*

The applicant stated that her employers did not assist her in making phone calls once she arrived in the United States, but that she was able to contact her parents by calling a friend of hers in New York. *Id.* The applicant indicated that she was satisfied with her salary, yet her employers told her not to reveal her amount of pay to their neighbors. *Id.* The applicant explained that she did not have to pay rent or other expenses, she was permitted to share the food in her employers' house, and she did not have to pay taxes. *Id.* at 3.

The applicant stated that her employers consulted her regarding the possibility of the family getting a dog, and she agreed it would be acceptable. *Id.* She provided that she cared for the dog. *Id.* She explained that she would walk the dog, which allowed her to become friends with her neighbors, yet her employers were concerned that their neighbors would discover that she had no legal immigration status. *Id.* The applicant noted that the dog would sometimes bite her, but that her employers assured her it was normal for a puppy, and provided her with training materials to learn how to interact with the dog. *Id.*

The applicant stated that her employers allowed her to leave New Jersey with her friends, and she visited New York, West Point, and [REDACTED]. *Id.* at 3-4. When she informed one of her friends about her salary, her friend became concerned that it was too low, yet the applicant "told her that everything's okay and assured her that [the applicant was] in good hands." *Id.* at 4.

The applicant stated that the cabana where she stayed did not have adequate heat, and her employers told her she could sleep with the elderly lady she cared for, or remain in the cabana and use a heater. *Id.*

The applicant explained that one of her employers' sons showed her how to use email and helped her establish an account so she could correspond with friends. *Id.* However, she noted that Belen became angry when she discovered the applicant using the computer. *Id.*

The applicant noted that she received many gifts and a \$500 bonus for Christmas holidays. *Id.* at 4-5, 11. The applicant indicated that on her first birthday with her employers' they gave her \$100, earrings, and celebrated at a local restaurant. *Id.* at 5. She provided that her pay was increased to \$600 in September 2003. *Id.* at 9. She indicated that she was permitted to perform work for another employer for which she was paid

¹ A separate document submitted by the applicant that provides a timeline of events reflects that she was paid on a monthly basis. *Timeline* at 1, undated.

\$100, but that when she attempted to work outside the home on another occasion, [REDACTED] protested. *Id.* at 10, 13-14. She noted that at one point [REDACTED] paid her \$800 for working in an office. *Id.* The applicant provided that her salary increased to \$700 per month in September 2004. *Id.* at 17-18; *Timeline* at 1, undated. The applicant explained that she was sometimes paid under another person's name, and she was not always paid the full agreed upon wage. *Id.* at 21.

The applicant stated that [REDACTED] gave her a cell phone at the applicant's request. *Id.* at 5. She stated that she tried to offer money to help pay the bill, but her employers' refused to take it. *Id.*

The applicant stated that she would discuss her working conditions with her employers' daughter when she found them unfavorable. *Id.* at 6. Yet, when the daughter would report them to [REDACTED] they would argue and [REDACTED] would in turn threaten the applicant and remind her she could have the applicant deported. *Id.*

The applicant stated that, in August 2003, she requested to take a vacation to visit her friend's family in Virginia, and [REDACTED] allowed her to go in exchange for cleaning a property that was to be sold. *Id.* at 9.

The applicant stated that she felt like she could not leave her employers because [REDACTED] could tell immigration authorities that she has no legal status. *Id.* at 10.

The applicant stated that in December 2003 she went out to see a film and have dinner. *Id.* at 11. She provided that she took a vacation with her employers to Washington, DC and New York in January 2004, and she attended two theatre performances. *Id.* She stated that, on another occasion, [REDACTED] and her family went on vacation, leaving the applicant at home. *Id.* at 13. During their absence, the applicant went to a shopping mall, and she went out with her friend. *Id.* The applicant explained that she was permitted to travel to Virginia to visit friends. *Id.* at 16. On other occasions, the applicant was permitted to travel to New York and Atlantic City with her friends. *Id.* at 17, 24.

The applicant informed her employers that she intended to stop living with them and working for them as of January 2005. *Id.* at 18 [REDACTED] offered to allow the applicant to manage a bed and breakfast if she would stay, but the applicant expressed that she would still go. *Id.* The applicant traveled to Virginia to meet a man that she considered marrying, yet he did not meet her. *Id.* The applicant returned to her employers and decided to continue working for them. *Id.*

The applicant described health problems she endured while working for her employers. *Id.* at 5-30. The applicant stated that she began having "depression syndrome," and that she tried to commit suicide by taking pills. *Id.* at 5. The applicant explained that she developed a pain in her side, but that [REDACTED] initially just gave her a pain reliever. *Id.* She provided that she had hemorrhoids, and she received a consultation with a doctor and medication. *Id.* at 9, 15, 18. However [REDACTED] offered the applicant a sample of an alternate ointment instead of assisting the applicant with filling the prescription she was given. *Id.* at 18.

The applicant felt additional pain, and her employers arranged for her to receive an ultrasound which revealed a cyst. *Id.* at 21. The record reflects that the applicant received treatment for the cyst, including medication and an additional ultrasound. *Id.* at 25. The applicant learned that she would likely require surgery to remove the cyst. *Id.* at 25-26. The applicant provided that her employers arranged for a hospital to designate her as a "charity" patient, ostensibly to eliminate the costs associated with surgery. *Id.* at 25. The applicant stated that [REDACTED] delayed her surgery for her own convenience. *Id.* at 27-28. The applicant received a date for surgery,

yet she decided to get a second opinion and she canceled with the hospital. *Id.* at 29. The applicant stated that [REDACTED] became very angry with her for canceling the surgery. *Id.* at 30. [REDACTED] screamed at the applicant and threw things at her including books and a can, yet others intervened and the applicant departed the house. *Id.*

The applicant stated that she suspects her employers contacted her family in the Philippines, because her family members are requesting that she apologize to [REDACTED] *Id.* at 31. She provided that she did apologize to her employers and “it’s over.” *Id.*

Upon review, the record does not support that the applicant was subjected to a severe form of trafficking in persons, as required by the Trafficking Victims Protection Act, 22 U.S.C. § 7102(8). The applicant and counsel do not assert, and the record does not support, that the applicant was a victim of sex trafficking as contemplated by 22 U.S.C. § 7102(8)(A) of the Trafficking Victims Protection Act. The record does not support that the applicant was subjected to involuntary servitude, peonage, debt bondage, or slavery. Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(B). The record shows that the applicant voluntarily accepted a position in the United States, and that she found the conditions of her employment and the treatment by her employers at times harsh. 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).

The applicant has not shown that her employers subjected her to debt bondage. The applicant provided that she borrowed approximately \$5,000 from her relatives to pay for fees associated with her immigration and travel to the United States. However, the applicant has not established that these fees were unreasonable, or that the funds she paid were not used for purposes related to her relocation to the United States. Further, any debt the applicant owed as a result of the \$5,000 fee was owed to her family members, not to her employers. Accordingly, the applicant did not pledge her personal services to her employers as security for a debt she owed to them, as contemplated 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.* As discussed above, in the context of determining whether an individual is a victim of human trafficking, slavery involves a condition in which the victim is compelled to perform involuntary labor.

The applicant has not established that her employers subjected her to involuntary servitude, peonage, or slavery. The applicant accepted a position with her employers with knowledge that she would be providing domestic services as a live-in caregiver. The applicant stated that she understood that she would eventually be working in an office, yet she did not specify what agreement was made in this regard, or what work she believed she would perform in the office. The applicant described her duties, which included cleaning, cooking, caring for an elderly lady, and caring for and training a dog. None of the applicant’s stated duties appear to fall outside of those ordinarily expected of a live-in domestic employee. The applicant expressed that she disliked some of her duties, and that she received little time off from work. However, the record does not support that her employers compelled her to perform tasks that fall outside of the ordinary duties of a live-in domestic employee. The applicant has not provided a clear account of her regular weekly work schedule, yet she described numerous vacations that she took, independent of her employers, that suggest she was regularly given time off. Accordingly, while the AAO acknowledges that serving as a live-in domestic

employee can be demanding work, the record does not support that the applicant's employers placed her into a working environment that required her to involuntarily perform tasks that fall outside of their agreement, or that they required her to work without adequate rest.

The applicant explained that her employers controlled her communication with others, and that she was not permitted to freely travel. Though the applicant stated that her employers initially did not assist her in making calls upon her arrival in the United States, she explained that her employers eventually gave her a cell phone for which they paid the bill. The applicant did not describe any restrictions on her use of the cell phone, thus it appears that she was able to contact friends and family at will. The applicant made frequent mention of her friends and activities she performed with them, which suggests that she was permitted to communicate with them often. The applicant further described numerous independent activities and trips she took with her friends, such as going to a shopping mall, more than one trip to New York, and trips to Virginia and Atlantic City. The applicant contends that her movements and communication were restricted, yet her lengthy statement reflects that she was regularly afforded independence away from her employers.

The applicant stated that she was paid for her work, and despite one of her friends expressing concern that her salary was too low, she indicated that she was satisfied with her pay. As compensation for her work, the applicant was given room and board, as well as between \$500 and \$700 per month. The applicant further indicated that her employers were to send \$500 per month to her father's aunt in the Philippines to repay funds she borrowed for the \$5,000 fee, yet she did not provide whether these payments were in fact made. The applicant explained that she was sometimes paid under a different name, and that she was not always paid the agreed upon wage. However, the record does not contain adequate detail to show that the applicant's employers failed to give her fair compensation for her labor, such that they subjected her to involuntary servitude or slavery.

The applicant explained that she suffered from health conditions while she was employed with Belen. She suggested that she was not given prompt care, and that she was not properly informed of her condition or medical care options. While the AAO sympathizes with the applicant's health problems, the applicant has not shown that her employers agreed to provide her with medical care, or that they otherwise had an obligation to assist her in obtaining medical attention. The applicant has not asserted or shown that her employers prevented her from seeking medical care on her own. In fact, the applicant's employers arranged for her to see doctors, they provided her with medication, and they arranged for a hospital to provide surgery for her at no cost to the applicant. While the applicant suggested that her employers were insensitive to her medical condition, and required her to work when she was in pain, the record does not reflect that they failed to meet any legal obligations, or that the applicant was unable to refuse to work if she felt she could not.

The applicant explained that her living conditions were poor. For example, she indicated that she had to choose between sleeping with the elderly woman she cared for, and sleeping in a cabana that was poorly heated. She provided that she was very cold in the winters due to inadequate heating in the cabana. Yet, the applicant did not describe the conditions in which she would have resided had she chosen to sleep with the elderly woman under her care. The record suggests that the applicant may have chosen to reside in the cabana in the interest of her own privacy, rather than sharing a room and taking advantage of the amenities of the family home.

The applicant explained that [REDACTED] treated her with hostility at times. She stated that [REDACTED] threatened to report her to immigration authorities on several occasions, and on one occasion she threw books and a can at

the applicant. The reported behaviors of [REDACTED] cannot be condoned, and threatening an individual with legal action is a serious matter. The AAO acknowledges that when a foreign national accepts employment in the United States, and that individual's immigration and economic status is dependent on her employer, the employer has significant influence over the individual. However, the fact that such a relationship exists does not render an employment arrangement to be trafficking.

The record supports that the applicant could have left the employment of her employers at will. The applicant explained that, when [REDACTED] first learned that the applicant intended to terminate her employment, [REDACTED] was cordial and offered to have the applicant operate a bed and breakfast if she would stay. The applicant did in fact depart her employers' household and traveled to Virginia to meet her prospective fiancé, yet she returned on her own accord when she found that conditions working at her employers' household were more favorable than remaining in Virginia. When the applicant ultimately later left her employers, [REDACTED] became angry and hostile to the applicant. However, the applicant indicated that [REDACTED] was angry at the applicant at least in part due to the applicant canceling her surgery date that her employers had arranged, not merely because the applicant was leaving. The applicant was paid a monthly salary of \$500-700. She has not provided that her funds were controlled by her employers. Thus, the record suggests that the applicant had the capacity to save independent resources to return to the Philippines or to seek alternate employment.

The AAO acknowledges that the applicant was unsatisfied with her working conditions and the treatment she received from [REDACTED]. However, the record does not support that the applicant was forced to work or remain with her employers against her will. The facts that the applicant did not have a legal immigration status, and [REDACTED] sometimes threatened to report her to authorities, did not render the applicant's employment a severe form of trafficking in persons. While the record suggests that [REDACTED] threatened to report the applicant's illegal status to influence her behavior, such as when [REDACTED] was angry when the applicant canceled her surgery date, the applicant has not established that [REDACTED] made such threats to keep the applicant employed in her household or to prevent her from seeking employment elsewhere. Accordingly, the applicant has not shown that she was placed into "a condition of servitude induced by means of any scheme, plan, or pattern intended to cause [her] to believe that, if [she] did not enter into or continue in such condition, [she] or another person would suffer serious harm or physical restraint; or the abuse or threatened abuse of legal process." 8 C.F.R. § 214.11(a). As the applicant has not established that she was forced to perform involuntary labor, or that her employers intended for her to perform involuntary labor, she has not shown that she was subjected to slavery as contemplated by the Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(B).

It is noted that the applicant submitted an evaluation from a licensed psychologist describing the facts of the applicant's experience with her employers, and assessing the psychological impact on the applicant. *Report from [REDACTED]*, dated November 10, 2006. However, as the applicant provided a very detailed account of her experiences in her 32-page statement, the psychologist's recounting of the facts of the applicant's case is given less evidentiary weight. The AAO acknowledges that the applicant's departure from her home in the Philippines and arrival in the United States, her dissatisfaction with her employment situation, and her serious health problems have caused her significant psychological distress. However, the applicant's emotional difficulty with her circumstances does not render her employers' actions to be a severe form of trafficking in persons as contemplated by section 101(a)(15)(T)(i)(I) of the Act.

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 an employment agreement, and that the applicant was unsatisfied with the conditions and treatment she received, yet she has failed to show that the employment relationship 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. In her primary statement, the applicant noted that she had apologized to her employers, and that "it's over." *Statement from Applicant* at 31. The applicant's mother provided a statement in which she expressed that the applicant may be harmed should she return to the Philippines. *Statement from Applicant's Mother*, dated November 6, 2006. However, the applicant's mother did not clearly articulate who would harm the applicant, or why they would do so. *Id.* The applicant's mother indicated that she and the applicant's father would be unable to help the applicant with any medical care costs. *Id.* However, the record lacks documentation to reflect the applicant's or her parents' economic resources, or to show what medical expenses the applicant has or expects to have. The applicant has not established that she would experience 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.

Based on the foregoing, the applicant has failed to establish that she satisfies the requirements for T status as provided in 101(a)(15)(T)(i) of the Act.

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.