



U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: NOV 21 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 last entered the United States on August 15, 1990 in K-1 status. The applicant claims that she was coerced to come to the United States pursuant to a human trafficking scheme in order to make her a domestic servant. 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 September 20, 2002. On December 3, 2003, the center director issued correspondence notifying the applicant of her intent to deny the Form I-914 application, and affording the applicant 60 days in which to submit additional documentation. 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 April 10, 2006. Specifically, the center director found that the applicant failed to show that: (1) the applicant is a victim of a severe form of trafficking in persons, and; (2) the applicant's physical presence in the United States is on account of a severe form of human trafficking in persons. On April 26, 2006, the applicant filed a motion to reconsider the center director's denial of the application. On July 13, 2006, the center director granted the applicant's motion to reconsider and reexamined the evidence and the applicant's eligibility. However, the center director found that the applicant failed to overcome the grounds for denial and again denied the application. *Decision of the Center Director*, dated July 13, 2006.

On appeal, counsel for the applicant contends that the applicant was the victim of human trafficking and that she is eligible for a T visa. *Brief in Support of Appeal*, dated July 21, 2006. Counsel asserts that the center director ignored statements in the record from expert witnesses. *Id.* at 2. Counsel contends that the applicant was subjected to psychological, economic, and social coercion in order to place her into a position of debt bondage, peonage, indentured servitude, and slavery. *Id.* at 5, 10. Counsel explains that the applicant's consent to entering into a fraudulent marriage for immigration purposes is negated by the fact that she was coerced. *Id.* at 7.

Evidence of Record

The record contains numerous documents in connection with the present application and the applicant's lengthy immigration history, including, in pertinent part: briefs and correspondence from counsel; statements from the applicant; a copy of the applicant's current marriage certificate; a copy of the applicant's husband's naturalization certificate; copies of the applicant's children's birth certificates; a copy of a deed reflecting that the applicant and her current husband purchased real property on January 18, 1996; documentation in connection with the applicant's application for a passport; a copy of the applicant's passport, and; a copy of the applicant's birth certificate.

The record contains statements and letters from individuals who support the applicant's case, including private citizens, a former police sergeant, and U.S. State and federal government officials. These include: two sworn statements from retired police sergeant [REDACTED] regarding the facts of the applicant's case; two statements from [REDACTED] the director of the Women's Center at the University of

Washington, expressing her opinion that the applicant is a victim of human trafficking; a letter from [REDACTED] United States Senator, Washington, expressing her support for the applicant's case; a letter from [REDACTED] Senator for the 38th Legislative District for the State of Washington, expressing her support for the applicant's case; a letter from [REDACTED] Senator for the 36th Legislative District for the State of Washington, expressing her support for the applicant's case; a letter from [REDACTED] Representative for the 11th District in the Washington State House of Representatives, voicing her support for the applicant's case; a letter from [REDACTED] Representative for the 26th District in the Washington State House of Representatives, expressing her support for the applicant's case; letters from [REDACTED], director of Prima Seva, an organization working on issues of human trafficking, expressing her support for the applicant's case; a letter from [REDACTED], who organized a conference titled "Trafficking of Women and Children: Challenges and Solutions" for which the applicant spoke, expressing her support for the applicant's case; a letter from [REDACTED], director of the Asian Pacific Islander Women & Family Safety Center, expressing her support for the applicant's case; a statement from the applicant's neighbors, [REDACTED] offering their support for the applicant's case, and; a letter from an individual, [REDACTED] voicing support for the applicant's case.

The record further contains numerous newspaper articles discussing the facts of the applicant's case and community support for her continued status in the United States, as well as copies of reports on conditions in the Philippines, particularly relating to human trafficking.

The record contains documentation in connection with the alleged trafficking scheme and the applicant's alleged traffickers, including: a detailed account of the applicant's domestic tasks performed for her alleged traffickers; a copy of the 1991 IRS Form 1040, U.S. Individual Income Tax Return, of the applicant's alleged trafficker; copies of numerous items of correspondence from the applicant's alleged trafficker to U.S. government authorities regarding the applicant's actions and immigration history; a copy of the divorce decree for the applicant and her alleged trafficker; copies of handwritten notes from the applicant to her alleged trafficker; documentation in connection with a petition for K-1 status filed by the applicant's alleged trafficker on her behalf, and; letters from the applicant's relative and her alleged trafficker in connection with the marriage fraud scheme to bring her to the United States.

The applicant submitted two reports from [REDACTED] a specialist in child, adolescent, and family psychiatry, in which he evaluates the psychological impact the applicant's experiences have had on her and her family, and the detrimental consequences that would result should she be prohibited from remaining in the United States.

The record contains extensive documentation in connection with the applicant's prior proceedings before U.S. Citizenship and Immigration Services (formerly Immigration and Naturalization Service), in Immigration Court, before the Board of Immigration Appeals (BIA), before the United States District Court, Western District of Washington at Seattle, and before the Ninth Circuit, including: a motion to reconsider the denial of the applicant's Form I-914 application; documentation in connection with proceedings in the United States District Court, Western District of Washington at Seattle, regarding a writ of habeas corpus and request for declaratory and injunctive relief; documentation in connection with proceedings in Immigration Court involving the applicant, including an order reflecting that proceedings were administratively closed on November 5, 2001; documentation in connection with the applicant's proceedings before the Board of Immigration Appeals (BIA); documentation in connection with the United States Court of Appeals, Ninth Circuit's review and reversal of the BIA's decision to deny a motion to reconsider the applicant's case.

The record further contains documentation in connection with the applicant's prior counsel, including evidence that her prior counsel was investigated by a Washington State Bar ethics panel for alleged indiscretions associated with his representation of her.

The entire record was reviewed and considered in rendering this decision on appeal.

Procedure

On December 20, 1989, [REDACTED] filed a Form I-129F, Petition for [REDACTED] on behalf of the applicant. The petition was approved, and the applicant entered the United States in K-1 status on August 15, 1990. The applicant married [REDACTED] in February 1991. The applicant was adjusted to conditional lawful permanent resident status on February 14, 1991. On February 16, 1993, the applicant's conditional status was removed and she became a lawful permanent resident. [REDACTED] reported to U.S. immigration authorities that his marriage with the applicant was a sham in order to obtain a legal status for her, and on September 5, 1995 the applicant's permanent resident status was rescinded. The applicant and [REDACTED] were divorced, and the applicant remarried a United States citizen on September 5, 1995. On October 2, 1996, the applicant filed a Form I-485 application to adjust her status to permanent resident based on her current marriage, concurrently with a Form I-130 petition for alien relative filed by the applicant's current husband on her behalf. On April 2, 1998, INS denied the Form I-130 filed by the applicant's husband on her behalf. On July 28, 1999, the applicant's spouse filed a second Form I-130 on her behalf, which was also denied based on the applicant's prior participation in a sham marriage for immigration purposes pursuant to section 204(c) of the Act.

On March 4, 1997, the Immigration and Naturalization Service (INS) issued an Order to Show Cause, alleging that the applicant entered the United States in K-1 status based on a sham marriage, thus asserting she committed fraud and/or misrepresentation. The applicant was granted voluntary departure in Immigration Court. On October 2, 1998, the Office of Disciplinary Counsel, Washington State Bar Association, recommended that the applicant's counsel in rescission proceedings be ordered to a hearing on charges of lack of competence and conflict of interest. On May 12, 1999, the applicant's request for a stay of deportation based on her prior counsel's indiscretions was denied. On May 14, 1999, the applicant's request for a stay of deportation was denied by the BIA. On May 18, 1999, the applicant filed a complaint before the United States District Court, Western District of Washington at Seattle (district court), requesting declaratory and injunctive relief (a stay of deportation) and including a writ of habeas corpus to secure her release from detention. On May 20, 1999, the district court issued a Minute Order instructing INS to take no action to remove the applicant until a decision could be made on her writ of habeas corpus.

Based on ineffective assistance of counsel and her prior attorney's indiscretions, the applicant filed a motion to reopen proceedings with the BIA to reexamine the immigration court's order finding her deportable under sections 241(a)(1)(A) and (G)(ii) of the Act. On July 19, 1999, the BIA dismissed the applicant's motion. On July 22, 1999, the applicant appealed the BIA's decision to the Ninth Circuit. On July 29, 1999, the applicant was released from custody under an Order of Supervision. On January 26, 2001, the applicant filed a Form I-360 requesting a T visa pursuant to the Trafficking Victims Protection Act of 2000. On February 16, 2001, the Ninth Circuit found that the BIA abused its discretion in failing to reopen proceedings, as the applicant's prior counsel's indiscretions were documented, and the applicant had a plausible ground for relief based on her claim that she was coerced into participating in the sham marriage. On November 5, 2001, immigration

court proceedings against the applicant were terminated upon joint request by the applicant and the U.S. government.

As noted above, the applicant filed the present Form I-914 application for T status on September 20, 2002.

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*, (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 for her captors.

Facts

The applicant explained that, in 1989, she was desperate for work in the Philippines. *Statement from Applicant*, dated August 27, 2004. The applicant was aware that her aunt and her aunt's husband, [REDACTED], had previously brought the applicant's friend to live in the United States. *Id.* at 1. [REDACTED] proposed a scheme to the applicant in which the applicant would marry [REDACTED] in order to immigrate to the United States and become their live-in domestic servant. *Id.* [REDACTED] told the applicant that coming to the United States as [REDACTED] would be the fastest way to obtain status in the United States. *Id.* [REDACTED] instructed the applicant not to discuss their plans with anyone. *Id.* at 2. The applicant noted that [REDACTED] was a retired police officer. *Id.* at 1.

The applicant explained that, once she was in the United States, [REDACTED] would drive her by an immigration detention facility and tell her "There's where you'll go if you make a mistake." *Id.* at 2. [REDACTED] told the applicant that she must do everything he tells her or he'll "kill" her. *Id.* The applicant explained that she came to fear that [REDACTED] would harm her or her family members if she didn't follow their instructions. *Id.* She believed they had previously sought to arrange a "kill for hire" of a business associate who betrayed them. *Id.* [REDACTED] informed the applicant that if she made any mistakes in their immigration interview, she would be sent to jail. *Id.* On one occasion in February 1993, [REDACTED] threatened to write the applicant's parents in the Philippines to require that they sign a document attesting to the fact that they knew the applicant was coming to the United States to work instead of marry, which would allegedly expose them to criminal prosecution. *Id.* at 2-3. The applicant provided that [REDACTED] made her sign a document in 1993 when they were angry with her, but she is not aware of the contents. *Id.* at 3.

The applicant explained that her working conditions were harsh, and that she was on call 24 hours per day, seven days per week. *Id.* She noted that [REDACTED] would sometimes wake her up after she had gone to bed to have her perform tasks for them. *Id.* The applicant provided an example of a situation in which she resisted following instructions of [REDACTED] and [REDACTED] became very angry, yelled at her, and told her that "[i]f [he and [REDACTED]] ask [her] to do something [she has] to do it." *Id.* at 5. The applicant stated that she was paid \$300 per month. *Id.* at 3. The applicant provided that she took a part-time job at a fast food restaurant for 16 to 20 hours per week. *Id.* The applicant stated that she was not aware that she was depositing her earnings into an account that had [REDACTED] name on it. *Id.* at 4. The applicant provided that [REDACTED] deducted \$100 per month from her pay for medical and car insurance. *Id.* at 3. She stated that [REDACTED] frequently reminded her of the money she owed them for gas and car insurance. *Id.* at 4. The applicant indicated that she also began working at a grocery store, and that [REDACTED] stopped paying her for the work she did at their house. *Id.* at 5. The applicant stated that she cleaned [REDACTED] office without pay, and that [REDACTED] regularly insulted her. *Id.* The applicant explained that she attempted to sell beauty products, and [REDACTED] were unhappy about it. *Id.* at 7.

The applicant noted that [REDACTED] took her passport shortly after she arrived in the United States, and they never returned it despite the fact that a judge ordered it returned in a divorce decree. *Id.* at 5.

The applicant explained that she developed a relationship with a man and informed [REDACTED] that she had a boyfriend. *Id.* at 6. [REDACTED] instructed her to "come home right now," and pounded his hand on a table. *Id.* [REDACTED] told the applicant that from then on she was "not going to leave the house anymore," and that he wanted her to go back to the Philippines. *Id.* The applicant provided that she was not permitted to leave the house, to go to work, or to use the phone to inform her other employers. *Id.* She stated that [REDACTED]

took the car keys and her checkbook, and they had two individuals watch the house to ensure she didn't leave. *Id.* The applicant stated that ultimately took her \$3,500 savings from her bank account, which he has never returned. *Id.* at 4.

The applicant explained that she escaped at night time and took refuge in the back of the grocery where she worked. *Id.* at 6-7. She stated that attempted to contact her, but she did not respond. *Id.* She expressed that she feared would threaten her with his gun. *Id.* at 6-7. The applicant provided that she sought help from a retired police sergeant. *Id.* at 7-8.

The record contains documents that support the applicant's assertions, including statements from the retired police sergeant from whom the applicant sought assistance. stated that he has known and that tedly informed him of his intent to make the applicant his maid. *Statement from* , dated April 29, 1998. attested that "engaged in a fraudulent scheme to get a Filipina maid, in which [the applicant] was acting under duress and subject to undue influence." *Id.* at 1.

Analysis

The issues in the present proceeding are whether: (1) the applicant is a victim of a severe form of trafficking in persons, and; (2) the applicant's physical presence in the United States is on account of a severe form of human trafficking in persons. Upon review, 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.

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 executed by on September 9, 2002. A properly executed LEA Endorsement "must . . . be signed by a supervising official responsible for the investigation or prosecution of severe forms of trafficking in persons." 8 C.F.R. § 214.11(f)(1). As is a retired police sergeant, the applicant has not established that he is a supervising official, or that he has responsibility for investigating or prosecuting acts of trafficking in persons. *Id.* Thus, the LEA Endorsement is not deemed primary evidence that a human trafficking incident has occurred. 8 C.F.R. § 214.11(f)(2). However, as has direct, personal knowledge of the facts of the applicant's case, his statements are considered secondary evidence as witness affidavits. 8 C.F.R. § 214.11(f)(3)

The applicant has not provided documentation from U.S. Immigration and Customs Enforcement ("ICE") granting her continued presence in accordance with 28 C.F.R. § 1100.35. Thus, the applicant has not presented primary evidence that she has been the victim of a severe form of trafficking in persons.

The record contains secondary evidence including statements from the applicant. However, the documentation in the record is not sufficient to establish that subjected the applicant to a severe form of trafficking in persons.

As observed by the center director, the applicant came to the United States willingly pursuant to a fraudulent marriage scheme as an effort to circumvent the immigration laws of the United States. However, the fact that the applicant willingly participated in the marriage fraud scheme does not foreclose the possibility that she

became a victim of human trafficking. The AAO must assess the treatment the applicant received upon her arrival to the United States to determine whether she was subjected to involuntary servitude, peonage, debt bondage, or slavery.¹ Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(B).

The record reflects that [REDACTED] intended to bring the applicant to the United States to act as their domestic servant. The applicant performed labor in their home and at a place of business, and she indicated that she was “on call” all hours of the day. In return, she received \$300 per month, room and board, and educational benefits. The AAO acknowledges that the applicant’s compensation was modest, and that the tasks and hours of a live-in domestic worker can be arduous. Yet, the record does not reflect that the value of the applicant’s compensation differed from the original agreement between the applicant and [REDACTED] or that it was equivalent to an amount below the federal minimum wage. Nor has the applicant provided sufficient explanation to show that her duties and hours for [REDACTED] were in excess of those anticipated by their original agreement, or significantly greater than those ordinarily expected of a live-in domestic employee. It is noted that the fact that a job involves low compensation or difficult tasks does not render it an instance of human trafficking.

The applicant indicated that she received poor treatment from [REDACTED]. She recounted a situation in which she resisted following instructions of [REDACTED] and [REDACTED] became very angry, yelled at her, and told her that “[i]f [he and [REDACTED] ask [her] to do something [she has] to do it.” Yet, the applicant has not provided sufficient explanation of this incident in order for the AAO to assess to context of [REDACTED] actions. The applicant was an employee of [REDACTED]. Had the applicant refused a reasonable request within the scope of her duties, [REDACTED] would have been warranted in taking remedial action. While the AAO does not condone an employer treating an employee with disrespect, the AAO is unable to conclude that this incident represents a pattern of abuse or coercion by [REDACTED].

The applicant explained that, once she was in the United States, [REDACTED] would drive her by an immigration detention facility and tell her “There’s where you’ll go if you make a mistake.” However, the applicant has not adequately explained the timing or frequency of these occurrences, such that the AAO can assess whether they were regular efforts intended to induce the applicant to continue in a coercive labor relationship. The applicant’s statement suggests that [REDACTED] was referred to the applicant making “a mistake” in her marriage interview, not generally making a mistake during the course of her normal duties. Thus, the applicant’s description of these incidents does not show that [REDACTED] threatened her with deportation or other legal action as a means to coerce her to remain under their control and perform services for them.

The applicant indicated that [REDACTED] told her that she must do everything he tells her or he’ll “kill” her. However, the applicant has not described behaviors of [REDACTED] that indicate that he in fact represented that he would use violence against her for noncompliance. The record does not establish that [REDACTED] threatened to commit homicide. It is plausible that [REDACTED] stated that he would “kill” the applicant as a colloquial expression meaning that he would be disappointed in her, and the context lends weight to this possibility.

The single instance described by the applicant involving the use of force by [REDACTED] consists of him pounding his hand on a table. Yet, the applicant indicated that she was on the phone with [REDACTED] when this instance occurred, thus it is unclear how the applicant was aware of the source of the noise she determined to

¹ The applicant does not assert, and the record does not support, that she was a victim of sex trafficking, as contemplated by the Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(A).

be striking a table. Nor does this event, as described by the applicant, reflect that struck a table as a means to threaten the applicant with violence.

The applicant stated that she believes had previously sought to arrange a “kill for hire” of a business associate who betrayed them. Yet, the applicant has not identified how she discovered this information, and she has provided no detail, documentation, or explanation regarding this serious allegation. Accordingly, the AAO gives no weight to this unsupported assertion.

The applicant noted that is a retired police officer, and she expressed a fear that he would use his gun on her. However, the record contains no explanation or evidence to show that has improperly used his firearm, or that he displayed it to the applicant or threatened to use it at any time as a means of coercion.

The AAO acknowledges that, particularly to a foreign national who may be unfamiliar with the U.S. criminal justice system, status as a retired law enforcement officer may cause an individual to believe he enjoys immunity from prosecution and greater access to legal processes than an ordinary citizen. However, the record does not reflect that improperly used his status as a retired law enforcement officer to coerce the applicant to remain under his control and perform services for him.

The applicant stated that, on one occasion in February 1993, threatened to write the applicant’s parents in the Philippines to require that they sign a document attesting to the fact that they knew the applicant was coming to the United States to work instead of marry, which would allegedly expose them to criminal prosecution. However, the record lacks sufficient explanation for the AAO to assess the context of this event, such as what circumstances preceded the alleged threat or whether presented such a document to the applicant.

The applicant provided that made her sign a document in 1993 when they were angry with her, but she is not aware of the contents. Without further explanation, the AAO cannot determine the context of this event, the nature of the document, or conclude that were obtaining the applicant’s signature as a means to coerce her.

The record shows that the applicant had significant independence while living and working in home. The applicant took computer classes at a technical school. The applicant eventually held a part-time job at a fast food restaurant for 16 to 20 hours per week, and she began working at a grocery store. She further provided that she attempted to sell beauty products. The applicant explained that she was depositing money into an account that contained name. Around the time that the applicant left and they were in conflict, the applicant stated that withdrew \$3,500 from this account, as discussed below. Yet, the record does not support that regularly utilized funds from this account, that they instructed the applicant to seek alternate employment for their gain, or that they benefited from the applicant’s labor for her other employers.

The applicant indicated that stopped paying her for the work she did at their house. Yet, as the applicant continued to reside in their home, it is evident that she received some compensation in the form of room and board. As the applicant became engaged in significant activities outside’s home, the record suggest that she had less time available for domestic services to

The applicant has not shown that the cessation of her \$300 per month compensation was not a reasonable reflection of her reduction in duties.

The applicant provided that [REDACTED] deducted \$100 per month from her pay for medical and car insurance. The applicant has not shown that these deductions were unreasonable. She stated that [REDACTED] and [REDACTED] frequently reminded her of the money she owed them for gas and car insurance. The applicant has not asserted that she did not owe money to [REDACTED] for gas and car insurance. Reminding the applicant of a legitimate debt is not deemed to be coercive. Further, the facts that the applicant was charged for car insurance and owed money for gas to [REDACTED] suggest that she had use of an automobile, which further supports that she had independence from [REDACTED].

The applicant noted that [REDACTED] took her passport shortly after she arrived in the United States, and they never returned it despite the fact that a judge ordered it returned in a divorce decree. However, the applicant has not shown that [REDACTED] took her passport as a means to control her. The applicant's immigration-related documentation was of significance to [REDACTED] as he was engaged in marriage fraud with the applicant and had a pending interview in connection with their fraudulent application. It is reasonable that [REDACTED] had an interest in keeping the applicant's documents in a safe location. The applicant has not asserted that she attempted to recover her passport while she was engaged with [REDACTED] thus the record does not reflect that they held her passport as a means to subject her to involuntary servitude, peonage, debt bondage, or slavery.

The applicant explained that she developed a relationship with a man and informed [REDACTED] that she had a boyfriend. [REDACTED] instructed her to "come home right now," and pounded his hand on a table. [REDACTED] told the applicant that from then on she was "not going to leave the house anymore," and that he wanted her to go back to the Philippines. The applicant provided that she was not permitted to leave the house, to go to work, or to use the phone to inform her other employers. She stated that [REDACTED] took the car keys and her checkbook, and they had two individuals watch the house to ensure she didn't leave. The applicant stated that [REDACTED] ultimately took her \$3,500 savings from her bank account, which he has never returned.

These actions taken by [REDACTED] were part of an effort to return the applicant to the Philippines. They were not an attempt to coerce the applicant into performing labor or services. [REDACTED] was engaged in a fraudulent scheme that depended on the appearance that he and the applicant were joined in a legitimate marriage. The applicant's relationship with another man threatened [REDACTED] fraudulent scheme, and potentially exposed him to serious legal consequences. The record supports that [REDACTED] actions to limit the applicant's freedom and resources were an attempt to secure her departure from the United States and shield [REDACTED] from prosecution. The applicant has not shown that [REDACTED] intended to hold her in their home for the purpose of subjecting her to involuntary servitude, peonage, debt bondage, or slavery.

On appeal, counsel contends that the center director ignored statements in the record from expert witnesses. *Id.* at 2. However, the record reflects that the center director gave consideration to letters of support provided by State and federal government officials, as well as professionals working on issues of human trafficking and members of the applicant's community. *Decision of the Center Director on Motion*, dated July 13, 2006; *Decision of the Center Director* at 1-2. The AAO has reviewed all evidence submitted by the applicant. It is noted that the letters from U.S. State and federal government officials and professionals working on issues of

human trafficking, while supportive of the applicant's case, do not provide an account of the facts of the applicant's experiences or an analysis thereof. *Statements from* [REDACTED] dated September 7, 2002 and January 28, 2004; *Letter from* [REDACTED] United States Senator, Washington, dated August 2, 2002; [REDACTED] Senator for the 38th Legislative District for the State of Washington, dated September 11, 2002; *Letter from* [REDACTED] Senator for the 36th Legislative District for the State of Washington, dated August 26, 2002; *Letter from* [REDACTED] Representative for the 11th District in the Washington State House of Representatives, dated August 30, 2002; *Letter from* [REDACTED] Representative for the 26th District in the Washington State House of Representatives, dated September 12, 2002; *Letters from* [REDACTED] director of Prima Seva, dated September 4, 2002 and January 14, 2004; *Letter from* [REDACTED], undated; *Letter from* [REDACTED] director of the Asian Pacific Islander Women & Family Safety Center. The authors profess knowledge of the applicant's case, yet they do not reference sufficient facts of the applicant's situation or provide legal analysis. *Id.* None of the aforementioned authors claim to have personal knowledge of the events the applicant has described. *Id.* Without adequate analysis of particular facts, the authors' stated opinions that the applicant is a victim of a severe form a human trafficking carry little weight.

The AAO gives due consideration to the letters of support. Yet, by themselves, they are not sufficient to meet the applicant's burden to show by a preponderance of the evidence that she was the victim of human trafficking as contemplated by section 101(a)(15)(T) of the Act. U.S. Citizenship and Immigration Services (CIS) is charged with the responsibility of conducting appropriate factual and legal analysis to determine if an applicant satisfies the requirements of section 101(a)(15)(T) of the Act. CIS may not rely on the legal conclusions in a letter of support without a clear basis in the facts of the case and sound legal analysis, irrespective of the author's academic background, professional experience, or field of expertise. The AAO finds that the center director gave adequate consideration of the letters of support entered into the record, in light of the absence of legal analysis.

Based on the foregoing, the AAO finds that the applicant has not shown by a preponderance of the evidence that she has been a victim of a severe form of trafficking in persons, as contemplated by section 101(a)(15)(T)(i)(I) of the Act, the Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(B), and 8 C.F.R. § 214.11(a).

Conclusion

Based on the foregoing, the applicant has not established by a preponderance of the evidence 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. For these reasons, the application may not be approved.

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.