

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

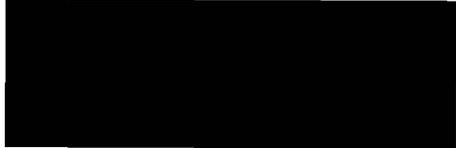
U.S. Department of Homeland Security
20 Massachusetts Ave. N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

8/2



FILE: [REDACTED]

Office: VERMONT SERVICE CENTER

Date: NOV 26 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:



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 July 20, 2003 pursuant to an H-1B visa in order to be placed in a teaching position. The applicant utilized his financial resources and borrowed funds to pay a large fee to an organization in exchange for employment placement in the United States. However, he was not given a position as agreed, and he stated that he was compelled to remain with his alleged traffickers against his will due to the large debt he incurred to pay their fees and his 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 December 12, 2005. On May 5, 2006, the center director issued a Form I-797, Notice of Action, requesting that the applicant provide additional evidence to support his application. The applicant provided additional documentation, yet the center director then issued a Notice of Intent to Deny the application on September 6, 2006. 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 November 16, 2006. Specifically, the director found that the applicant failed to show that: (1) he is a victim of a severe form of trafficking in persons; (2) his physical presence in the United States is on account of a severe form of human trafficking in persons, and; (3) he would suffer extreme hardship involving unusual and severe harm should he return to the Philippines.

On appeal, counsel for the applicant contends that the record shows that the applicant was subjected to debt bondage, involuntary servitude and peonage, and thus he was a victim of human trafficking. *Brief from Counsel*, dated January 11, 2007. Counsel asserts that the applicant is in the United States on account of the trafficking scheme to which he was subjected. *Id.* at 27. Counsel contends that the applicant will suffer extreme hardship involving unusual and severe harm should he be removed from the United States. *Id.* at 19-27. Counsel asserts that the center director failed to give adequate weight to the evidence provided by the applicant. *Id.* at 4-15.

Evidence of Record

The record contains: a brief from counsel; statements from the applicant; articles on customs and conditions in the Philippines; articles regarding the scheme of conduct of the applicant's alleged traffickers; documentation in connection with the applicant's skills testing and recruitment in the Philippines; a copy of the applicant's H-1B visa and 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 and employment authorization pursuant to 8 C.F.R. § 274a.12(c)(14); a copy of a list of teachers for Ysleta School District including the applicant; an affidavit from another teacher recruited by the applicant's alleged traffickers; letters reflecting that the applicant was entered into the U.S. Federal Bureau of Investigation's Victim Assistance Program; an indictment against the applicant's alleged traffickers; a copy of a schedule of fees that the applicant was to pay to his alleged traffickers; copies of checks and currency paid to the applicant's traffickers; a letter from a physician reflecting that the applicant is receiving care for severe depression, Post-Traumatic Stress Disorder, and persistent anxiety disorder; documentation regarding the applicant's participation in counseling; a copy of the applicant's birth certificate;

copies of wire transfers from the applicant to his wife in the Philippines, and; a copy of a facsimile from the applicant to his alleged trafficker requesting a loan of \$200. 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*, (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 submitted a Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, Form I-914 Supplement B, (“LEA Endorsement.”) This document was approved by a law enforcement

officer on September 16, 2005. 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 borrowing money he is unable to repay and by lying to [him] about the availability of employment.” *LEA Endorsement*, dated September 16, 2005. 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 approximately \$12,000 from family members to pay recruitment fees for a job in the United States they knew did not exist. *Id.* at 3.

The LEA Endorsement explains that, once in the United States, the applicant was under the physical and psychological control of the traffickers. *Id.* The LEA Endorsement indicates that the traffickers threatened the applicant with deportation and legal process if he did not follow their instructions, and that the applicant fears retaliation from them due to their influence and power. *Id.* at 3-4. The LEA Endorsement provides that the applicant’s debt has increased to an insurmountable level since he has been in the United States without work. *Id.* at 4.

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

The applicant further provided documentation from U.S. Immigration and Customs Enforcement (“ICE”) granting him Deferred Action, as well as Employment Authorization in accordance with 8 C.F.R. § 274a.12(c)(14). Thus, the applicant has presented primary evidence that he 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 he explains his experiences. The applicant provided that, in June 2001, he attended an orientation for teachers in the Philippines operated by Omni Consortium, in connection with Multicultural Professionals, LLC and Universal Staffing. *Statement from the Applicant*, at 1, undated. He indicated that he was offered the opportunity for employment in the United States that provided a sign-on bonus, a relocation allowance, two years of tax free income, \$32,000 to \$60,000 annual compensation, and the ability to bring his wife. *Id.* The applicant stated that he paid numerous fees associated with his recruitment and placement in the United States, including a deposit of approximately \$6,000 to [REDACTED]. *Id.* at 1-2. He obtained the funds to pay the fees by selling some of his real estate, using his savings, borrowing funds from his friends and family, and taking a loan with a financier. *Id.* at 1.

The applicant arrived in the United States on July 20, 2003, yet soon discovered no job was available for him. *Id.* at 3. The applicant resided in overcrowded accommodations with other teachers while [REDACTED] and her associates attempted to place him and other teachers into teaching positions. *Id.* at 3-7. Contrary to his agreement, the applicant was charged for his accommodations, and he had to fund and prepare his food. *Id.* The applicant explained that he was dependent on [REDACTED] due to the fact that she controlled his immigration status and employment prospects, and he needed to secure a position quickly to repay his large

debt. *Id.* at 4. The applicant expressed that he suffered serious emotional hardship under his harsh circumstances. *Id.*

On August 29, 2003, the applicant departed [REDACTED] by bus and traveled to Austin, Texas to stay with the relative of another teacher in the same circumstances as the applicant. *Id.* at 4-5. The applicant contacted [REDACTED] and she was very angry and informed him that he should return to her immediately or face deportation. *Id.* [REDACTED] informed the applicant that he could still obtain employment through her, and he met her in Washington, DC on September 15, 2003 as part of a supposed effort to find a teaching position for him and other unemployed teachers. *Id.* at 5-6. However, [REDACTED] did not place the applicant into employment as agreed, and the applicant continued to reside in substandard conditions. *Id.* at 6.

The applicant explained that [REDACTED] began to use him for labor, including preparing and loading heavy baggage when moving teachers to new locations, performing construction tasks at her home, preparing food for her guests, and harvesting fruit from her orchard. *Id.* at 5-8. The applicant stated that he resided in and worked at [REDACTED] home for approximately four months, yet he was not paid for his services. *Id.* [REDACTED] warned him not to seek employment or leave the home or she would arrange to have him deported. *Id.* The applicant indicated that he requested a refund of some of his money, yet [REDACTED] refused and he was compelled to take a \$200 loan from [REDACTED] husband for personal expenses and food. *Id.* at 6. When [REDACTED] went to the Philippines to recruit more teachers, the applicant and another teacher remained in her home until they ran out of food and sought help elsewhere. *Id.* at 8. The applicant made contact with U.S. immigration authorities and received assistance. *Id.*

In a second statement, the applicant explained that [REDACTED] was successful in creating an environment of fear, and that she warned him many times not to go to his relatives for help. *Statement from Applicant*, dated May 30, 2006. The applicant stated that he became hopeless, helpless, and weak, which allowed [REDACTED] to control and manipulate him. *Id.* at 1.

In a third statement, the applicant explained that he accrued debt to [REDACTED] throughout his stay under her control, as she charged him five dollars per day for his lodging, transportation expenses, and fees for applying for jobs at schools. *Statement from the Applicant*, dated October 23, 2006. He noted that [REDACTED] informed him that the work he did for her was in part satisfaction of the debt he owed to her. *Id.* at 6-7.

The applicant asserts that he will experience extreme hardship if he returns to the Philippines. *Id.* at 8. The applicant stated that [REDACTED] agency has attempted to locate him, and one teacher informed him that he must pay the money he owes to [REDACTED] and her husband. *Id.* at 9. The applicant stated that he fears legal action against him in the Philippines by [REDACTED] and her associates if he returns. *Id.* He indicated that [REDACTED] and her associates are wealthy and powerful, and they could threaten or kill him and his wife in the Philippines. *Id.* The applicant stated that he would have difficulty obtaining employment in the Philippines due to his depression, anxiety, back pains, and age of 45 years. *Id.* He indicated that he requires regular counseling and medical attention. *Id.* at 9-10. The applicant explained that the area where he and his wife reside in the Philippines is far from a city and medical services. *Id.* at 10. The applicant stated that conflicts persist in the Philippines and he would not be safe. *Id.* The applicant explained that he would be unable to bring legal action against his traffickers in the Philippines because the government does not protect victims. *Id.* at 10-11. The applicant indicated that [REDACTED] and her associates contacted his brother and told him that the applicant should pay all of his debt, and his brother refused to pay for him. *Id.* at 12.

The applicant submitted a statement from [REDACTED], a Filipina teacher who was subjected to the same circumstances as the applicant. [REDACTED] explained that she resided in [REDACTED] home when the applicant was there. *Id.* at 2. She indicated that [REDACTED] had the applicant perform labor, including construction tasks, harvesting fruit, preparing food, and preparing for [REDACTED] parties. *Id.* at 2-3. [REDACTED] stated that she and the applicant were not paid for their services. *Id.* at 3. She explained that [REDACTED] instead instructed them to borrow funds from her agency if they needed money. *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 he was a victim of human trafficking. *Id.* Counsel highlights evidence provided by the applicant, including the LEA Endorsement, the indictment against the applicant's traffickers, the affidavit from another Filipina teacher, and evidence that the applicant was granted Deferred Action. *Id.* at 4-15. Counsel states that [REDACTED] kept the applicant under her control through nonviolent coercion, which is recognized as sufficient coercion to support a trafficking claim. *Id.* at 16 (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.* at 18.

Counsel asserts that the applicant is in the United States on account of the trafficking scheme to which he was subjected. *Id.* at 27.

Counsel contends that the applicant will suffer extreme hardship involving unusual and severe harm should he be removed from the United States. *Id.* at 19-27. Counsel contends that the applicant suffered physical and psychological consequences due to his trafficking experience, and that he requires medical attention. *Id.* at 20-24. Counsel asserts that, in the Philippines, "poor families must actually forgo health care or go into debt or sell their assets" in order to obtain medical services. *Id.* at 24. Thus, counsel suggests that the applicant would be poor should he return to the Philippines, limiting his access to required medical care. *Id.* Counsel contends that the applicant requires the services of health professionals who understand issues of trafficking, suggesting that such professionals are unavailable in the Philippines. *Id.*

Counsel asserts that the applicant requires access to the U.S. criminal and civil justice systems in order to seek redress from his traffickers. *Id.* Counsel reiterates the applicant's statement that, should the applicant be afforded a legal immigration status in the United States, he will pursue legal action against [REDACTED] and her associates. *Id.* at 25. Counsel highlights that the applicant expressed fear of placing himself in danger should he return to the Philippines after initiating legal action against his traffickers. *Id.*

Counsel asserts that, due to the applicant's indebtedness, he is at risk of being re-victimized should he return to the Philippines. *Id.* 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 26. Counsel points out that the applicant stated that his traffickers harassed him and his brother after the applicant escaped them. *Id.* Counsel asserts that this risk is supported by the LEA Endorsement and evidence of the money the applicant owes and has paid to his debtors. *Id.* at 26-27.

Analysis

The issues in the present proceeding are whether: (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) whether the applicant would suffer extreme hardship involving unusual and severe harm upon removal. Upon review, the applicant has established that he has been a victim of a severe form of trafficking in persons, and that his 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. However, the applicant has not shown that he would suffer extreme hardship involving unusual and severe harm upon removal, as required by section 101(a)(15)(T)(i)(IV) of the Act

The applicant has provided primary evidence to show that he is a victim of a severe form of human trafficking. Specifically, the applicant submitted an LEA Endorsement that describes the harms to him. The LEA Endorsement contains a statement from the certifying officer that is based on investigation with the applicant's participation. The certifying officer notes that the traffickers were not charged with trafficking, yet they were charged with crimes that constitute the elements of trafficking in persons. The LEA Endorsement supports the applicant's description of his experiences. The fact that the applicant has been granted Deferred Action by ICE further supports his victim status.

The record contains secondary evidence that establishes that [REDACTED] held the applicant in a position of involuntary servitude. [REDACTED] created a scheme that caused the applicant to believe that if he did not continue to follow her instructions and remain under her control, he would be subjected to serious consequences including legal action, deportation, and substantial economic hardship. See 8 C.F.R. § 214.11(a). The applicant's movements and activities were restricted by [REDACTED] and the applicant was placed into a position of financial dependence. [REDACTED] directly threatened the applicant with deportation if he failed to follow her instructions.

[REDACTED] was aware of the large debt incurred by the applicant to come to the United States, and she exploited his economic need to coerce him to perform services for her without compensation. It is evident that, but for the applicant's perceived dependence on [REDACTED], he would not have performed strenuous labor for her in her home without compensation. It is significant that the applicant performed such labor after several months of serious emotional distress due to being defrauded, residing in harsh conditions, facing possible deportation, and being separated from his native country and family. The applicant reasonably believed that if he did not follow [REDACTED] instructions, he would face legal consequences including deportation. The AAO finds that the conditions under which the applicant performed labor for [REDACTED] constituted involuntary servitude. 8 C.F.R. § 214.11(a). On this basis, the applicant has established that he was the victim of a severe form of trafficking in persons, as required by section 101(a)(15)(T)(i)(I) of the Act.

Counsel contends that the applicant was subjected to debt bondage. The applicant obtained funds to pay fees to [REDACTED] and her associates by selling some of his real estate, using his savings, borrowing funds from his friends and family, and taking a loan with a financier in the Philippines. However, the record does not reflect that the applicant pledged his personal services as a security for the debts he accrued with his family or a financier. The record suggests that such debts were to be satisfied by repaying funds, with no alternative of providing services. 8 C.F.R. § 214.11(a). The fact that the applicant was expected to obtain funds by engaging in employment with some employer does not render these loans debt bondage as contemplated by 8

C.F.R. § 214.11(a). The fact that [REDACTED] was aware of the debt and used it, in part, to coerce the applicant does not render his situation debt bondage. 8 C.F.R. § 214.11(a).

The applicant explained that he accrued debt with [REDACTED] for his lodging, transportation, and a \$200 loan. However, the applicant did not pledge his personal services to [REDACTED] as security for this debt. While the applicant subsequently performed labor for [REDACTED] the record suggests that [REDACTED] presented the labor as an exchange for the applicant's lodging in her home, not for prior debt. Thus, the applicant has not submitted sufficient evidence to show that he was subjected to debt bondage, as defined by 8 C.F.R. § 214.11(a). However, as the applicant has shown that he was subjected to involuntary servitude, has shown that he was the victim of a severe form of trafficking in persons, as discussed above.

The applicant has shown that he is physically present in the United States on account of the trafficking incident he experienced. Section 101(a)(15)(T)(i)(II) of the Act. The applicant departed [REDACTED] in January 2004. *LEA Endorsement* at 4. As of September 16, 2005, at the time the LEA Endorsement was executed, the applicant was working with U.S. law enforcement agents to investigate and prosecute his traffickers, and he was notified that he might be called to testify in court. *Id.* at 2. The record reflects the applicant was receiving medical care and counseling subsequent to and, at least in part, as a result of his trafficking experience, which served as a basis for him to remain in the United States. As the applicant first attempted to file the present application on December 12, 2005, it is reasonable that he remained in the United States at that time, and continues to remain in the United States, on account of the trafficking scheme he described. Accordingly, the AAO finds that the applicant meets the requirement of section 101(a)(15)(T)(i)(II) of the Act.

However, the applicant has not submitted sufficient evidence to establish that he would suffer extreme hardship involving unusual and severe harm should he be removed from the United States. Section 101(a)(15)(T)(i)(IV) of the Act. Counsel contends that the applicant suffered physical and psychological consequences due to his trafficking experience, and that he requires medical attention. Yet, the record does not contain adequate evidence to show the severity of the applicant's health problems, or the level of care he will require in the future.

Regarding the applicant's physical health, the record contains a single, brief letter from [REDACTED] in which [REDACTED] attests that the applicant has been diagnosed with GERD and Lumbar Radiculitis. *Letter from [REDACTED]* undated. [REDACTED] indicated that he referred the applicant to physical therapy for his Lumbar Radiculitis, however the applicant has not indicated or submitted documentation to show whether he in fact attended physical therapy sessions, and if so, how many sessions he attended, whether he achieved progress, whether he continues to participate in such sessions, and whether medical professionals have recommended that he continue the sessions. The applicant has not submitted a sufficiently detailed analysis of his GERD condition such that the AAO can assess whether he requires or receives ongoing medical care.

Regarding the applicant's mental health needs, the AAO acknowledges that the applicant has endured emotionally traumatic circumstances. It is reasonable that he would seek counseling to assist in coping with his experiences. However, the record does not reflect the severity of the applicant's mental health, or whether he continues to require or receive mental health care. The letter from [REDACTED] states that the applicant is under his care for severe depression, Post-Traumatic Stress Disorder, and persistent anxiety disorder. *Letter from [REDACTED]* However, [REDACTED] did not provide detail regarding the applicant's diagnosis or treatment. As the brief letter is undated, the AAO cannot ascertain when the applicant was treated by [REDACTED]

Nayak for mental health conditions or the length of time he received such care. The letter does not indicate whether the applicant has made progress in his care or whether he requires future mental health services.

The applicant submitted copies of email correspondence between him and a counselor that reflect that the applicant arranged a counseling session in October 2006. *Email from [REDACTED], dated October 8, 2006.* However, the record does not reflect whether the applicant engaged in ongoing counseling with [REDACTED] or any other counselor, or if so, whether he achieved progress and whether he requires further sessions. The applicant has not submitted a statement or report from [REDACTED] regarding her assessment of his mental health.

Accordingly, the applicant has not submitted sufficient documentation to show by a preponderance of the evidence that he requires specialized health care that is not available in the Philippines.

Counsel suggests that the applicant would lack economic resources in the Philippines to obtain health care services. Yet, the record does not clearly reflect whether the applicant would have access to employment and economic resources in the Philippines that would allow him to obtain health care. The applicant worked as a teacher prior to his arrival in the United States, and he has not explained whether he would be able to again secure employment as a teacher should he return to the Philippines. The applicant has not indicated whether he had access to medical care prior to coming to the United States. The applicant's wife currently resides in the Philippines, and the applicant has not stated whether she has access to employment and medical care. Thus, as the record does not establish whether the applicant falls within the class of poor individuals referenced by counsel who lack access to medical care in the Philippines, the applicant has not shown that related reports support that he, too, would lack access to medical services.

Counsel asserts that the applicant requires access to the U.S. criminal and civil justice systems in order to seek redress from his traffickers. Counsel reiterates the applicant's statement that, should the applicant be afforded a legal immigration status in the United States, he will pursue legal action against [REDACTED] and her associates. Counsel highlights that the applicant expressed fear of placing himself in danger should he return to the Philippines after initiating legal action against his traffickers. The applicant indicated that he has spoken with an attorney regarding initiating civil action against [REDACTED] and her associates. Yet, the record contains no evidence, such as a letter from the applicant's litigation counsel, to reflect that he has made preparations for or anticipated filing a lawsuit. The applicant has not filed a civil complaint against his traffickers, thus his departure from the United States would not disrupt any pending action.

The AAO acknowledges the applicant's desire to wait to initiate litigation against his traffickers until he is aware of whether he will be afforded a durable legal immigration status in the United States. It is reasonable that the applicant's presence in the United States would be required in order to bring a successful civil suit against [REDACTED] and her associates. However, regarding the applicant's risk of harm due to bringing action against his traffickers, it is noted that he has already participated in an investigation that has led to criminal charges. The applicant has not shown that his risk of retaliation would significantly increase should he also pursue civil action.

The AAO gives due consideration to the applicant's desire to bring civil action against his traffickers in the United States. Yet, based on the record, his intention to file a lawsuit appears speculative.

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

The applicant has not explained whether his wife works in the Philippines, or if so, what is her income. The fact that the applicant transferred a total of \$300 to his wife by wire transfer between November 2004 and March 2005 does not show that she relies on him for support, or that she lacks independent resources that may be used to help support the applicant's household should he return.

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

The applicant explains that he fears that his traffickers will harm him physically should he return to the Philippines, including the possibility that he may be killed. However, the record does not support that [REDACTED] or her associates are inclined to take retribution against the applicant including serious physical harm. The applicant stated that his brother was contacted regarding his debt. Yet, the applicant has not indicated that he or his brother have been threatened with violence. The record suggests that the applicant's wife has continued to reside in the Philippines throughout and since the trafficking incident. Yet, the applicant has not indicated that his wife has been contacted, threatened, or harmed in any way by [REDACTED] or her associates. Thus, the applicant has not established that he is at risk of physical harm should he return to the Philippines.

Counsel asserts that the applicant may be subjected to legal action in the Philippines due to his outstanding debt. However, the applicant has not shown that the trafficking and fraud against him by [REDACTED] and her associates could not be asserted as a successful defense to any collection efforts they may attempt. The applicant has not established that legitimate collection actions by his creditors who are unrelated to the trafficking incident 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.

Based on the evidence of record, the applicant has not provided sufficient documentation to establish by a preponderance of the evidence that he would experience extreme hardship involving unusual and severe harm should he be removed from the United States. Section 101(a)(15)(T)(i)(IV) of the Act.

Conclusion

Based on the foregoing, the applicant has established that he has been a victim of a severe form of trafficking in persons, and that his 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. However, the applicant has not shown that he would experience extreme hardship involving unusual and severe harm should he 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 he 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.