

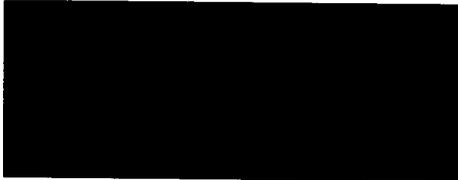
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DZ

FILE:



Office: VERMONT SERVICE CENTER

Date: JUN 30 2005

IN RE:



PETITION: 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).

ON BEHALF OF PETITIONER:



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, Director  
Administrative Appeals Office

**DISCUSSION:** The application for T nonimmigrant status was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn, and the matter remanded to the director for further action.

The applicant is a native and citizen of Armenia who last entered the United States on January 30, 1999 with an F-2 student visa. The applicant's sister [REDACTED] married [REDACTED] (Mr. [REDACTED]), a United States citizen, in 1994. Beginning in 1998, Mr. [REDACTED] promised United States visas to a number of Armenian citizens for varying sums of money. When Mr. [REDACTED] failed to deliver the visas, the aggrieved people approached the applicant's family to try to get their money returned. Some of the people threatened the applicant's family. Mr. [REDACTED] arranged for student visas for the applicant, her parents, and her two brothers and brought them to the United States. Upon arriving in the United States, the applicant, her parents, and her two brothers went to live with [REDACTED] and Mr. [REDACTED] in Ridgway, Colorado. Mr. [REDACTED] took the family's documents and made them work around his house. 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 director concluded that the applicant failed to establish that she was a victim of a severe form of trafficking, and that the record did not contain satisfactory evidence to demonstrate that the applicant was physically present in the United States on account of trafficking. The application was denied accordingly. *Decision of the Director*, Vermont Service Center, St. Albans, Vermont, dated March 10, 2005.

On appeal, counsel contends that the Vermont Service Center:

- 1) erred in requiring Petitioner to show that her required service could not have been reasonable, where the reasonable value of Petitioner's services was not applied toward liquidation of the alleged debt, and the length and nature of his [sic] services were limited or defined;
- 2) erred in holding that the nature of the debt Petitioner allegedly owed her captor was not in the nature of debt bondage, where regulations do not proscribe any particular form of debt;
- 3) erred in holding that the fact that Petitioner was eventually able to leave her condition of involuntary servitude meant that Petitioner was not held in involuntary servitude prior to her release;
- 4) erred in failing to apply the "any credible evidence" standard to the evidence submitted, as required by regulation;
- 5) erred in failing to give due consideration to the coercion, abuse of the legal process, imputed threats to family members, geographic isolation, psychological manipulation, control of travel and identity documents, and other dynamics that transformed the applicant's labor relationship into a situation of debt bondage and involuntary servitude;
- 6) erred in failing to consider the I-914B and notarized affidavits by state and local law enforcement as primary evidence of the applicant's victim status as mandated under the Trafficking Victims Protection Reauthorization Act;
- 7) erred in finding that Petitioner left her captor "of her own accord," where Petitioner was able to leave only pursuant to an agreement by her sister to submit sexually to her former husband;

- 8) erred in holding that her captor's crimes in Armenia are irrelevant to Petitioner's trafficking claim, where Petitioner's claim is that she was forced to flee her homeland due to her captor's fraudulent sale of visas, which implicated Petitioner and her family;
- 9) erred in finding that a law enforcement officer's use of terms such as "allegedly" in relation to a case where the officer's predecessor was the primary investigating officer, and no conviction was secured, undermine Petitioner's claim that she was the victim of trafficking.

In support of the appeal, counsel submitted a brief. In response to a Request for Evidence from the Vermont Service Center, counsel submitted an affidavit from [REDACTED] dated December 20, 2004; an affidavit from Ouray County Sheriff Dominic [REDACTED]; a statement by former [REDACTED]; an affidavit from the applicant; an affidavit from the applicant's attorney [REDACTED]; an affidavit from the applicant's brother-in-law, [REDACTED]; a statement from [REDACTED]; an affidavit from the applicant's sister, [REDACTED]; an affidavit from the applicant's father; a psychological evaluation of the applicant and other family members prepared by Doctor [REDACTED]; a statement from [REDACTED] and a statement from [REDACTED]. In support of the I-914 Application for T Nonimmigrant Status, counsel submitted an I-914 Supplement B completed by Ridgway [REDACTED] on September 23, 2004, and various other documents. The entire record was considered in rendering this decision.

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) 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 § 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 the 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 CFR § 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 granting the applicant continued presence in accordance with 28 CFR 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.

In order to obtain a T-1 visa, the applicant must demonstrate that she (1) is or has been a victim of a severe form of trafficking in persons; (2) 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; (3) complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking; and (4) would suffer extreme hardship involving unusual and severe harm upon removal from the United States. Each of these four requirements will be discussed in turn.

#### **I. Victim of a Severe Form of Trafficking in Persons**

##### **A. Statements of Current Local Law Enforcement Officials in Support of the Applicant's Claim to be a Victim of a Severe Form of Trafficking in Persons**

In support of the claim that the applicant is a victim of a severe form of trafficking in persons, counsel submitted a Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, Form I-914 Supplement B, (Law Enforcement Agency [LEA] Endorsement) signed on September 23, 2004 by Ridgway [REDACTED]. By signing the LEA Endorsement, Mr. [REDACTED] certified that the applicant is a victim of a severe form of trafficking in persons. Mr. [REDACTED] prepared a supplemental affidavit dated December 20, 2004 in which he described how Mr. [REDACTED] who was formerly married to the applicant's sister [REDACTED] brought the applicant and her family to the United States and forced them to live in isolation for several months and work for Mr. [REDACTED] for free.

The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, 8 U.S.C. § 1184 amended the Act as follows:

(B) by adding at the end the following:

(6) In making a determination under section 101(a)(15)(T)(i)(III)(aa) with

respect to an alien, statements from State and local law enforcement officials that the alien has complied with any reasonable request for assistance in the investigation or prosecution of crimes such as kidnapping, rape, slavery, or other forced labor offenses, where severe forms of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000) appear to have been involved, shall be considered.

Because no implementing regulation has been published, the director concluded that the LEA Endorsement submitted by the applicant from Mr. [REDACTED] a local law enforcement official, could not be considered as primary evidence to establish that the applicant is a victim of a severe form of trafficking in persons. Counsel contends that the TVPRA clearly provides that statements from local law enforcement officials should be considered primary evidence that the applicant has been a 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.

The TVPRA provision cited above requires the United States Citizen and Immigration Services (CIS) to consider statements from State and local law enforcement officials regarding the applicant's compliance with reasonable requests for assistance in the investigation or prosecution of crimes where severe forms of trafficking in persons have been involved; however, the provision makes no reference to such statements being primary evidence that an applicant has been a victim of a severe form of trafficking in persons. Accordingly, the AAO will consider Mr. [REDACTED]'s LEA Endorsement and affidavit as secondary evidence. The AAO notes that even if the TVPRA did require statements from state and local law enforcement to be considered as evidence of victimization, Mr. [REDACTED]'s LEA Endorsement could not be considered primary evidence in this case because it does not meet the requirements of 8 C.F.R. §214.11(f). Section 214.11(f)(2) states that an LEA endorsement will be considered primary evidence that the applicant has been the victim of a severe form of trafficking in persons only if "the details contained in the endorsement meet the definition of a severe form of trafficking in persons under this section."

Moreover, Form I-914 Supplement B includes the following instructions:

2. Please describe the victimization upon which the applicant's claim is based and identify the relationship between that victimization and the crime under investigation/prosecution. Attach the results of any name or database inquiry performed in the investigation of the case. Please include relevant dates, etc. Has the applicant expressed any fear of retaliation or revenge if removed from the United States? Explain. Attach additional sheets, if necessary.

The attestation section of Form I-914 Supplement B reads:

**Based upon investigation of the facts, I certify, under penalty of perjury, that the above noted individual is or has been a victim of a severe form of trafficking in persons as defined by the VTVPA. I certify that the above information is true**

**and correct to the best of my knowledge**, and that I have made, and will make, no promises regarding the above victim's ability to obtain a visa from the Immigration and Naturalization Service, based upon this certification. (emphasis added)

At the time he completed Supplement B, Mr. [REDACTED] provided no details concerning the applicant's mistreatment and, therefore, pursuant to the regulation, the endorsement could not be considered as primary evidence.

Mr. [REDACTED] subsequently provided an affidavit dated December 20, 2004 that did provide some details of the applicant's mistreatment:

This declaration is made for [REDACTED]. I believe that there are reasonable grounds to believe that [REDACTED] and her family were the victims of trafficking. Our office began preliminary investigation of the criminal activity of [REDACTED] in April of 2000 under the old Marshal, [REDACTED].

The perpetrator is believed to be [REDACTED] who was married to [REDACTED] [REDACTED] sister. The criminal activity occurred in and around Ridgway, Colorado.

Huckfeldt may have stolen large sums of money from Armenian citizens in return for promises to obtain visas and bring them to the United States. Later, [REDACTED] allegedly brought the family to the United States on visas that he may have obtained fraudulently, without the family knowing.

After arriving in Ridgway [REDACTED] and her family apparently lived in isolation under the watch of [REDACTED] for several months. [REDACTED] would not allow [REDACTED] or her family access to transportation, money, or information. The family was apparently forced to work for free on [REDACTED] property in order to "pay back" [REDACTED] for their visas.

Huckfeldt threatened to call immigration on [REDACTED] and her family to have them deported if the family tried to leave [REDACTED]. It seems he later did use immigration to punish them.

The AAO notes that by completing and signing Form I-914 Supplement B on September 23, 2004, Mr. [REDACTED] certified that the applicant is a victim of a severe form of trafficking in persons, specifically, 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. However, in his subsequent affidavit, the language he uses is not definitive. Rather he uses qualifiers that reduce the strength of the unqualified statement of the I-914, Supplement B. The director concluded that Mr. [REDACTED] use of qualifying terms such as "believed to be," "may have," "allegedly" and "apparently" indicate that the Marshal's office merely has a suspicion that that applicant was a victim of a severe form of trafficking, and that the Marshal's

office is not willing to avow the applicant's claim. The director stated "[T]he fact that Mr. [REDACTED] provided such a contradictory statement three months after certifying your LEA leads this office to believe that Mr. [REDACTED] certified the LEA based on suspicions and allegations made by you and your family."

Counsel stated that "[C]ongress intended that victims of trafficking be eligible for [REDACTED] relief, regardless of whether law enforcement conducts sufficient investigation to make conclusive statements regarding the nature and circumstances of the trafficking." Counsel asserts that in this case, where a law enforcement agency never opened a formal investigation, Mr. [REDACTED] cached his statements in such a way as to avoid the appearance of bias or other impropriety. While Congress may have intended for trafficking victims to be eligible for T-visa relief regardless of the intensity of the investigative effort, the applicant is still required to establish victimization, and there is nothing in the legislation or the legislative history to indicate that Congress intended for USCIS to take a statement from a law enforcement officer who has not fully investigated a claim as presumptive evidence of victimization. Moreover, counsel's assertion does not explain why Mr. [REDACTED] attested unequivocally in Supplement B that **"based upon investigation of the facts, I certify, under penalty of perjury, that the above noted individual is or has been a victim of a severe form of trafficking in persons as defined by the VTVPA. I certify that the above information is true and correct to the best of my knowledge (emphasis added),"** but later submitted a statement that used qualifiers such as "allegedly," "apparently," and "believed to be."

Counsel further contends that Mr. [REDACTED] subsequent statement supports his original statement in a more qualified manner but does not assert the contrary of nor imply a denial of the original statement. The AAO notes that while Mr. [REDACTED] subsequent statement does not state the opposite of his original statement, the subsequent statement's qualifying language raises reasonable doubts about the strength of Mr. [REDACTED] original statement. The subsequent affidavit states that there are reasonable grounds to believe the applicant is a victim of a severe form of trafficking in persons rather than stating unequivocally that she is a victim and it states that she has participated in the investigation of "possible trafficking." Both statements detract from the force of the Supplement B.

Finally, counsel asserts that without having personally investigated or successfully prosecuted the case against Mr. [REDACTED] "it is unreasonable to expect Mr. [REDACTED] to state that crimes that were subject to investigation have been conclusively proven in a court of law." The director applied no such evidentiary standard to Mr. [REDACTED] statements, nor does the law require such a standard.

The AAO concludes that Mr. [REDACTED] statements do not establish that the applicant is a victim of a severe form of trafficking in persons.

The record contains an affidavit from Ouray County Sheriff [REDACTED] dated December 2, 2004 in which he stated:

I believe there may be grounds to pursue an investigation relating to [REDACTED] treatment of the Sargsyan family when they first came to the United States. From the

information provided to my office by the members of the family, there is reasonable suspicion that Mr. [REDACTED] was engaged in fraud, and possibly in trafficking the Sargsyan family. Due to budget concerns, lack of personnel, and jurisdiction issues we have been unable to investigate these allegations.

Mr. [REDACTED] has no personal knowledge of the applicant's case. Because of the general and qualified nature of Mr. [REDACTED] statements, the AAO finds that they do not establish that the applicant was a victim of a severe form of trafficking in persons.

**B. Statements of Former Law Enforcement Officials, the Applicant, and Family Members in Support of the Applicant's Claim to be a Victim of a Severe Form of Human Trafficking**

Counsel contends that the applicant was subject to involuntary servitude because Mr. [REDACTED] confiscated her travel documents, threatened to have her deported, and subjected her to physical force if she did not work for him.

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."

The record contains a letter from former Ridgway Marshal [REDACTED] dated December 10, 2004. Mr. [REDACTED] served as Ridgway Marshal from July 7, 1986 to November 2001 and was the investigating officer in the case of Mr. [REDACTED]. Mr. [REDACTED] stated that his investigation revealed that Mr. [REDACTED] was violating restraining orders and perpetrating abuse, harassment and involuntary servitude against the entire Sargsyan family. Mr. [REDACTED] explained:

In the case of the [REDACTED] family, I uncovered information that Huckfeldt brought the family to the U.S. on a false student visa for the father [REDACTED] [REDACTED] purpose was to keep his wife's family from being killed for immigration crimes he had committed in Armenia and had left the family behind to suffer.

Yet when they arrived here, the family was not permitted to attend any school, including the teenage boys. They were all put to work for [REDACTED] using stolen

materials to build up [REDACTED] real estate. They received no pay and had to work from dawn to dusk doing any task that [REDACTED] devious mind could conjure just for food. They were not allowed to speak to anyone nor leave the small area to which they were assigned.

The family was helpless because [REDACTED] had taken their passports and were constantly threatened with exposure to INS if they did anything that did not please him. After the visas had expired Huckfeldt had them completely at his mercy with the only other option being deportation.

He had also taken [REDACTED] passport and there was no escape for her. She had to silently endure repeated rapes in order to keep her family relatively safe from the perverted wishes of this sick man. All to no avail because he lived up to his threats and filed false charges against Nvart and turned the rest of the family in to INS when he could no longer use them.

Mr. [REDACTED] retired from law enforcement after leaving his position as [REDACTED]. Mr. [REDACTED] stated that he then contacted the Colorado Bureau of Investigation, and that he hired a private investigator. Mr. [REDACTED] indicated that the investigation of Mr. [REDACTED] is ongoing but provided no additional evidence or information regarding the case.

The applicant submitted an affidavit dated January 12, 2005 in which she described her experience as the victim of trafficking suffered at the hands of Mr. [REDACTED]. The applicant stated that after she and her family arrived in the United States, Mr. [REDACTED] told the family that they were in his debt because he had paid over four thousand dollars for their plane tickets from Armenia to Denver, and that the family owed him the money and must pay him back by working for him. The affidavits of the applicant's father and sister corroborate these facts.

The applicant further explained that "He [REDACTED] never said how much we would get credit for or how long we had to work to pay him back for money that we didn't owe him anyway. We were just to work and do what he said and that was it." The applicant's father explained further:

[REDACTED] never said anything about how long we would have to work before he thought we paid him back. He never told me about any credit we would get for the work I did, or for the work the rest of the family did for him. I had no idea how long this would have to go on. I was afraid to bring it up because every time I did, he got angry at us for questioning his authority.

The applicant performed work for Mr. [REDACTED] that included taking care of his son [REDACTED] (whose mother is the applicant's sister [REDACTED]), cleaning the house, organizing food storage, and completing daily tasks as assigned by him. The applicant stated that she worked 10-12 hours a day for Mr. [REDACTED] and that he threatened to call immigration if the applicant failed to perform her assigned work.

The applicant stated in her affidavit that Mr. ██████ took the passports of all family members and threatened to turn them in to immigration authorities if the applicant did not perform the labor Huckfeldt demanded. She stated:

When ██████ got angry about my questions he would threaten to turn us in to the INS in because he said that he would say that we were illegal and not obeying our visas. He had all of our documents and told us that without them, we were nobody!!!

The applicant's father corroborates that the family's passports and identity documents were withheld as a form of control and to induce the family to perform the labor that Mr. ██████ ordered:

After our argument, he left to his bedroom and came back with a blue folder. He had all our documentation necessary. He told me to look at it because this may be the last time that I will see them if I kept questioning his authority. I was staring at him surprisingly when he added that the folder will be kept in a safe place where I won't see it again.

The applicant indicated that Mr. ██████ also used emotional and physical violence to control her:

Usually he would yell at us but on two occasions he grabbed me by the shoulders and shook me because I didn't follow his exact instructions. The first time he shook me was because I demanded to know from him how long our situation had to go on. I told him that we didn't want to leave Armenia to come to the United States and be somebody's slave. So he grabbed me by the shoulders and shook me and told me that if I don't do what he says then I will have to deal with the INS. Vaughn is a big man. I think he is over six feet tall and strong enough to hurt me. The second time he grabbed me and shook me was because we had an argument about the same thing. It kept going on and that is how he would respond whenever I tried to challenge what he was doing to us.

Mr. ██████ also exercised a great deal of control over the family because of his abusive relationship with ██████ the applicant's sister. The applicant explained that they were hesitant to disobey his orders and had concerns about trying to escape because of the consequences it could have for her sister. In her affidavit the applicant states:

We were concerned for ██████ and her son ██████ in particular. I thought that Vaughn would probably hurt them if we tried to get away from him or didn't do what he said. I knew that ██████ could hurt ██████ and ██████ because he had already been violent with me.

The applicant recounts that the only way the family was able to end Mr. ██████ exploitation was through ██████ promising to have sex with him every day. Moreover, she recounts that Mr. Huckfeldt's threats to have them deported were particularly terrifying to the family because they

feared harm in Armenia because of Mr. [REDACTED] crooked business deals. [REDACTED] states in her affidavit that her family believed that being sent back to Armenia was tantamount to a death sentence:

[REDACTED] said to my mother that they were going to pay the money back, and they had to work hard for him to do it. Otherwise he was going to send them back to Armenia, which would be back to their death. He said he had all the power to do it.

The AAO finds that the applicant has demonstrated that Mr. [REDACTED] created a climate of fear and control such that she believed that she and her family would be at risk of physical harm or deportation to Armenia if they did not follow [REDACTED] orders. He utilized the power dynamics he created to force the applicant to work and as such subjected her to involuntary servitude. After the applicant arrived in the United States, Mr. [REDACTED] took the applicant's documents, forced her to work for him, and threatened to turn her in to immigration authorities if she did not follow his orders. When the applicant moved out of Mr. [REDACTED] house, he reported the applicant to immigration authorities.

## **II. Physical Presence in the United States on Account of a Severe Form of Trafficking in Persons**

In order to obtain a T-1 visa, the applicant must demonstrate that she is physically present in the United States on account of such trafficking. 8 C.F.R. § 214.11 provides:

*g) Physical presence on account of trafficking in persons.* The applicant must establish that he or 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, and that he or she is a victim of a severe form of trafficking in persons that forms the basis for the application. Specifically, the physical presence requirement reaches an alien who: is present because he or she is being subjected to a severe form of trafficking in persons; was recently liberated from a severe form of trafficking in persons; or was subject to severe forms of trafficking in persons at some point in the past and whose continuing presence in the United States is directly related to the original trafficking in persons.

The record establishes that after the applicant arrived in the United States, Mr. [REDACTED] subjected her to involuntary servitude, a severe form of trafficking in persons. After escaping Mr. [REDACTED] control, the applicant and her family reported Mr. [REDACTED] to the appropriate authorities within a reasonable period of time and have participated in the investigation. Therefore, her continuing presence in the United States is directly related to this trafficking in persons. Accordingly, the applicant is physically present in the United States on account of a severe form of trafficking in persons.

**III. Compliance With Any Reasonable Request for Assistance in the Investigation or Prosecution of Acts of Trafficking**

Counsel has demonstrated that the applicant complied with reasonable requests for assistance in the investigation or prosecution of acts of severe forms of trafficking in persons. The record indicates that in addition to assisting the Ridgway [REDACTED] office in the investigation of Mr. [REDACTED] the applicant contacted, or attempted to contact, various federal law enforcement agencies.

**IV. Extreme Hardship Involving Unusual and Severe Harm if Removed From the United States**

To be eligible for T-1 nonimmigrant status under section 101(a)(15)(T)(i) of the Act, the applicant must demonstrate that her removal from the United States would subject her to extreme hardship involving unusual and severe harm. The Vermont Service Center's Request for Evidence did not request evidence relating to extreme hardship. The director's decision did not address whether the applicant met the extreme hardship requirement. Accordingly, the matter will be remanded to the director to determine if the applicant has demonstrated that her removal from the United States would subject her to extreme hardship involving unusual and severe harm. The director will issue a new decision addressing the claim of hardship which if adverse to the applicant shall be certified to the AAO for review.

**ORDER:** The decision of the director is withdrawn. The matter is remanded to the director for further action as noted above.