



U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: MAR 28 2006

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:

SELF-REPRESENTED

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 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 Bangladesh who last entered the United States on January 8, 2002. The applicant provides that she traveled to the United States to reside with a man she had married telephonically. However, she states that she became a victim of human trafficking, as the man failed to act as her husband and instead forced her to perform extensive domestic tasks, restricted her movement, and physically abused her. 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 July 18, 2005. On August 18, 2005, the center director issued a notice of intent to deny the application, affording the applicant 90 days in which to submit additional evidence. The applicant provided additional documentation, yet the center director found that the applicant failed to overcome the issues addressed in the notice of intent to deny and denied the application accordingly. *Decision of the Center Director*, dated December 19, 2005. Specifically, the director found that the applicant failed to show that: (1) exceptional circumstances caused her to miss the filing deadline imposed by 8 C.F.R. § 214.11(d)(4); (2) she is a victim of a severe form of trafficking in persons; (3) her physical presence in the United States is on account of a severe form of human trafficking in persons, and; (4) she would suffer extreme hardship involving unusual and severe harm upon removal.

On January 19, 2006, the applicant filed a Form I-290B appeal. On appeal, the applicant contends that the center director's decision is in error, as that evidence of record show that she was the victim of a severe form of human trafficking and that she would experience extreme hardship if she returns to Bangladesh. *Applicant's Statement in Support of Appeal*, submitted January 19, 2006.

The record contains statements from the applicant in support of the Form I-914 application, in response to the center director's notice of intent to deny, and in support of the appeal; a statement from a licensed clinical professional counselor discussing treatment the applicant has received; documentation of the applicant's presence and immigration status in Canada; a letter from an attorney with the civil rights division of the U.S. Department of Justice; reports on conditions in Bangladesh, particularly issues relating to human trafficking; documentation relating to the applicant's marriages and divorces, and; a statement endorsed by several organizations in Bangladesh attesting that the applicant would face harm if she returns there. The entire record was reviewed and considered in rendering a decision on the appeal.

The regulation at 8 C.F.R. § 214.11(d)(4) provides, in pertinent part:

Victims of a severe form of trafficking in persons whose victimization occurred prior to October 28, 2000 must file a completed application within one (1) year of January 31, 2002 in order to be eligible to receive T-1 nonimmigrant status If the applicant misses the deadline, he or she must show that exceptional circumstances prevented him or her from filing in a timely manner.

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.

The first issue in the present proceeding is whether the applicant filed her Form I-914 application within the timeframe permitted by the regulation at 8 C.F.R. § 214.11(d)(4). With the initial application, the applicant stated that she ceased involvement with her alleged trafficker in October or November 2000. In his notice of intent to deny the application, the center director informed the applicant of the requirements of 8 C.F.R. § 214.11(d)(4), and afforded the applicant an opportunity to show the date when she ended her involvement with her trafficker, and if applicable, whether exceptional circumstances caused her to delay her filing. In response to the center director's notice and on appeal, the applicant has failed to clarify whether her alleged trafficking experience ended prior to October 28, 2000. Thus, the applicant has not established that she is not subject to the one-year filing deadline imposed by 8 C.F.R. § 214.11(d)(4), and she must establish that exceptional circumstances caused her to delay her filing.

Upon review, the applicant has not shown that exceptional circumstances caused her to delay her filing. The applicant filed her I-914 application on July 18, 2005. The record reflects that the applicant made numerous filings with government agencies since the alleged trafficking incident ended, including filings for marriages and divorces, and an asylum application in Canada. The applicant has submitted documentation to show that she began treatment with a licensed clinical professional counselor on January 12, 2005 for depression. The AAO acknowledges that the applicant's mental health has likely had some impact on her ability to perform routine functions. Yet, the fact that she has made significant filings with government agencies, and she has had the assistance of legal professionals, reflects that she was capable of filing a Form I-914 application by January 30, 2003, the deadline imposed by 8 C.F.R. § 214.11(d)(4). Accordingly, the application was not

filed within the permitted timeframe, the applicant failed to show that the delay was due to exceptional circumstances, and the center director correctly denied the application on that basis. 8 C.F.R. § 214.11(d)(4).

The second issue in the present proceeding is whether the applicant has established that she is eligible for T nonimmigrant status under section 101(a)(15)(T) of the Act.

The applicant did not submit a Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, Form I-914 Supplement B, (Law Enforcement Agency [LEA] Endorsement.) The applicant further did not provide documentation from CIS granting her continued presence in accordance with 28 C.F.R. § 1100.35. Thus, the applicant has presented no primary evidence that she has been the victim of a severe form of trafficking in persons.

As secondary evidence, the applicant submitted statements in which she explains the facts of her case. The applicant stated that while she was in Bangladesh she was introduced to a man, [REDACTED], in the United States by her acquaintances. The applicant and [REDACTED] were married over the telephone under Islamic law, and the applicant traveled to the United States in January 2000 to reside with him. Rather than treating the applicant as his spouse, [REDACTED] placed her into the role of a servant for him and his son. [REDACTED] required the applicant to perform extensive domestic tasks that occupied her time from approximately 6:00am to 10:00pm daily. [REDACTED] agreed to provide money to the applicant so that she could send funds to her children, yet he failed to honor his agreement. [REDACTED] confiscated the applicant's passport and forbid her to leave their apartment. When the applicant did not perform her tasks to [REDACTED]'s satisfaction he physically abused her, including beating her with a stick, pulling her clothing, and kicking her. [REDACTED] told the applicant that he would hire someone to kill her if she attempted to leave. The applicant left in November 2000 and resided in two shelters. On one occasion [REDACTED] found the applicant and requested she rejoin him, yet she refused.

While at a shelter the applicant met another man, [REDACTED], whom she married. She filed for divorce after a short period.

The applicant stated that she relocated to New York to join her sister. In May 2000, she then traveled to Canada where she pursued an application for asylum for approximately two years. Once her asylum application was denied, she was returned to the United States by Canadian authorities on June 1, 2004. The applicant subsequently met and married her fourth husband, [REDACTED], yet left him because he treated her poorly. It is noted that the applicant divorced her first husband on June 15, 1992 due to the fact that he physically abused her.

The applicant stated that she met with an agent of the U.S. Federal Bureau of Investigation (FBI) and a U.S. Department of Justice investigator in April 2004 to report the events that occurred. She provided that she began attending therapy at the Center for Multicultural Human Services (CMHS), and she sees a psychiatrist. She indicated that she would be unable to receive required mental health services in Bangladesh.

Upon review, the applicant has not established that she has been the victim of a severe form of trafficking in persons. The applicant's statements, by themselves, are not sufficient evidence to show that she has been the victim of trafficking in persons. Although the center director requested additional documentation and information in his notice of intent to deny, the applicant has failed to adequately supplement the record. For example, the applicant has declined to provide affidavits from witnesses who have direct experience with the

alleged trafficking incident, such as employees of the shelters where she resided, the neighbor who assisted her escape, or her family members who offered her support during the relevant time period. While the record contains letters and statements from individuals other than the applicant, each acquired knowledge of the alleged trafficking only through discussion with the applicant, and thus such statements do not serve as adequate evidence that the trafficking in fact occurred.

As discussed by the center director, the applicant has married four men. All of these marriages ended in divorce, at least three due to the fact that the applicant's husbands harmed her. The applicant has provided documentation that she began sessions with a therapist on January 12, 2005. Antoine, a licensed clinical professional counselor, expressed the opinion that the applicant suffers from Post Traumatic Stress Disorder (PTSD.) *Report from [REDACTED], dated July 1, 2005.* [REDACTED] indicates that the applicant's symptoms are due to the alleged trafficking event. [REDACTED] does not discuss the harms the applicant endured in her subsequent marriages, and the record is unclear as to whether the applicant shared these events with [REDACTED]. Thus, as the record shows that the applicant has experienced numerous traumatic events in her life, some more recent than the alleged trafficking instance, it is not clear what are the precise causes of her current PTSD. While the report from [REDACTED] does reflect that the applicant is suffering from depression and PTSD, it does not serve as conclusive evidence that the applicant has been a victim of human trafficking.

The applicant has submitted reports on conditions in Bangladesh, specifically relating to human trafficking. However, the applicant has not explained how the reports support that she has been a victim of human trafficking.

Going on record without adequate supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Based on the foregoing, the applicant has failed to submit sufficient documentary evidence to show that she has been the victim of a severe form of trafficking in persons. Section 101(a)(15)(T)(i)(I) of the Act.

As the applicant has failed to establish that she has been the victim of a severe form of trafficking in persons, she has failed to show that she is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking. Section 101(a)(15)(T)(i)(II) of the Act. It is further noted that the applicant departed the United States, and resided in Canada for approximately two years while she pursued an application for asylum. The applicant was returned to the United States by Canadian authorities once her application was denied. Thus, the reason for her most recent entry to the United States is that she failed to receive asylum in Canada and was returned. As correctly noted by the center director, that fact that Canadian immigration law may treat the applicant as if she was never legally present in Canada is irrelevant to the applicant's actual physical presence, and her status under U.S. immigration law. The applicant in fact departed the United States for another country. Her reentry was not on account of a severe form of trafficking in persons, and thus she has failed to meet the requirement of section 101(a)(15)(T)(i)(II) of the Act.

Further, the applicant has failed to establish that she would suffer extreme hardship involving unusual and severe harm upon removal to Bangladesh, as required by Section 101(a)(15)(T)(i)(IV) of the Act. The record contains only general statements regarding harms to women in Bangladesh. The applicant has not indicated what specific harms she fears, or who would commit such offenses. The applicant submitted a brief, general

statement endorsed by six individuals in which they claim that the applicant would be subject to harm by Islamic fundamentalists upon return to Bangladesh. *Statement from Individuals in Bangladesh*, dated September 29, 2004. However, the record does not support that the applicant would be a specific target for harm, or that all women who return to Bangladesh are subject to extreme hardship involving unusual and severe harm.

Based on the foregoing, the applicant has failed to establish that she satisfies the requirements for T status as provided in 101(a)(15)(T)(i) of the Act. The AAO acknowledges that the applicant has endured significant hardship due to the events she has described, however, she has not shown that she is eligible for T status.

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

ORDER: The appeal is dismissed.