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U.S. Citizenship
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Services

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[REDACTED]

FILE:

[REDACTED]

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for T nonimmigrant status was denied by the Center Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Philippines who was last paroled into the United States on October 15, 2005 as a public benefit parolee. She initially entered the United States on June 16, 2003 pursuant to an H-1B visa in order to be placed in a teaching position. The applicant borrowed funds to pay a large fee to an organization in exchange for employment placement in the United States. However, she was not given a position as agreed, and she stated that she was compelled to remain with her alleged traffickers against her will and perform unpaid labor for them due to the large debt she incurred to pay their fees and her 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 July 20, 2006. On September 13, 2006, the center director issued a Notice of Intent to Deny the application. 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 December 29, 2006. Specifically, the center director found that the applicant failed to show that: (1) she is a victim of a severe form of trafficking in persons; (2) her physical presence in the United States is on account of a severe form of human trafficking in persons, and; (3) she would suffer extreme hardship involving unusual and severe harm should she return to the Philippines.

On appeal, counsel for the applicant asserts that the center director failed to give adequate weight to the evidence provided by the applicant. *Brief from Counsel* at 5-15. Counsel contends that the record shows that the applicant was subjected to debt bondage, involuntary servitude and peonage, and thus she was a victim of human trafficking. *Id.* at 14-22. Counsel asserts that the applicant is in the United States on account of the trafficking scheme to which she was subjected. *Id.* at 28. Counsel contends that the applicant will suffer extreme hardship involving unusual and severe harm should she be removed from the United States. *Id.* at 19-27.

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; copies of documents in connection with the applicant's H-1B visa; a copy of the applicant's Form I-94, Departure Record; a Form I-914, Supplement B – Declaration of Law Enforcement Officer for Victim of Trafficking in Persons; an indictment against the applicant's traffickers; copies of documents in connection with loans the applicant took to pay her traffickers' fees; copies of currency paid to the applicant's traffickers; a copy of an employment contract for the applicant; copies of the applicant's academic credentials, and; a copy of a subpoena calling the applicant to testify in U.S. District Court against her traffickers. 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, (Law Enforcement Agency [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 she is unable to repay and by lying to [her] about the availability of employment.” *LEA Endorsement*, dated February 2, 2006. 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 at a high rate of interest from Blue Pacific Holdings to pay recruitment fees for a job in the United States the recruiters knew did not exist. *Id.* at 3. The LEA Endorsement states that the applicant's traffickers arranged for her loan. *Id.* The LEA Endorsement indicates that "[t]he loan from Blue Pacific arranged for by the traffickers held [the applicant] in peonage, believing that the only possibility of repaying the debt was if she remained with the traffickers and performed the labor they arranged." *Id.* The LEA Endorsement states that the applicant was required to use a family member in the Philippines as a co-maker of the loan, and that such family member would face consequences with Philippine authorities should the applicant fail to repay the loan. *Id.* at 4. The LEA Endorsement explains that the applicant obtained a loan for \$15,000 in the United States in order to repay her debt to her traffickers so that they would not take action against her co-maker. *Id.* The LEA Endorsement provides that the traffickers coerced the applicant by using the threat of deportation and the applicant's belief that they controlled her immigration status and access to paid employment. *Id.* at 3.

The LEA Endorsement explains that the traffickers instructed the applicant and other victims not to seek assistance from law enforcement because they would be arrested and deported to the Philippines where they would face mounting debt. *Id.* at 4.

The LEA Endorsement indicates that the applicant fears retaliation from Blue Pacific Holdings or imprisonment by Philippine authorities due to her debt in the Philippines and the influence of her traffickers. *Id.*

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

As secondary evidence, the applicant submitted statements in which she explains her experiences. The applicant provided that she was a teacher in the Philippines and she was the primary source of income for her family due to the fact that her husband suffered an accident in their home. *Statement from Applicant*, dated May 12, 2006. The applicant stated that, despite her income of approximately \$200 per month, she and her family had to take loans to meet their regular expenses, including her husband's medical bills. *Id.* at 1.

The applicant provided that she attended an employment seminar for teachers in the Philippines operated by Omni Consortium, with [REDACTED] acting as the primary representative. *Id.* [REDACTED] offered an opportunity for teachers to work in the United States for approximately \$3,000 per month, including a sign-on bonus of \$1,500 to \$2,000, favorable working conditions, apartments, cars, and an opportunity to become an immigrant in the United States. *Id.* [REDACTED] informed the applicant that the employment opportunity would require many fees, including a \$6,000 deposit, \$1,500 agency fee, and numerous miscellaneous expenses such as those for interviews and skills testing. *Id.* [REDACTED] explained that Omni has a close relationship with Blue Pacific Holding, a local lending agency, that would provide loans for the fees. *Id.* at 2.

The applicant stated that, when she was offered a job in Texas, she took loans totaling approximately \$3,700 from friends, family, and a local school cooperative that extends financial services to teachers. *Id.* at 3. The

applicant explained that she took a loan of approximately \$12,400 from Blue Pacific. *Id.* She stated that a representative of Blue Pacific, CJ, required that she have a relative co-sign for her loan, and her cousin acted as co-signor. *Id.*

and the Omni Group secured an H-1B visa for the applicant to work for a school in Texas. *Id.* The applicant stated that she arrived in the United States with approximately 41 other teachers on June 16, 2003, and she was taken to an apartment where she was to live. *Id.* at 4. The applicant explained that she and the other teachers were required to pay a \$200 carpool fee, and they were not given access to independent transportation or instructions on how to use public services. *Id.* The applicant stated that her movements were restricted due to these transportation arrangements. *Id.* at 4-5.

The applicant indicated that told her repeatedly that she would be deported if she did not do as told and stay with the transportation organization, the Gandara Group. *Id.* at 5. The applicant stated that the Gandara Group began having her work for them without pay. *Id.* Her tasks included coordinating the teachers for transportation needs. *Id.* The applicant stated that she incurred expenses due to her work for the Gandara Group, yet she was not reimbursed. *Id.*

The applicant realized that she did not have a secure job in the United States, and that she had been misled. *Id.* at 6. The applicant explained that had her and other teachers apply for jobs in school districts that were not specified on her H-1B visa, and she was concerned regarding whether she would violate the terms of her immigration status. *Id.* at 6-7. The applicant learned that Omni had brought many Filipino teachers to the United States who were never employed as agreed. *Id.* at 7. The applicant stated that she was introduced to a Filipino man who convinced her to file a complaint with the Labor Department Office in El Paso, and she made contact with U.S. immigration agents. *Id.*

Omni compelled the applicant and other teachers to relocate from El Paso to McAllen, Texas to seek jobs. *Id.* The applicant explained that she continued to live in overcrowded conditions. *Id.* The applicant was then transported to Laredo, Texas, where she resided with who was in charge of coordinating the teachers for job application efforts. *Id.* at 9. The applicant stated that she was required to work for including providing childcare for approximately five hours per day, assisting her with errands such as carrying her bags at the grocery store, washing dishes, cleaning, and cooking. *Id.* The applicant was not paid for her labor. *Id.* The applicant explained that told her that if she disobeyed she would be deported back to the Philippines. *Statement from Applicant*, dated December 8, 2006.

The applicant explained that, due to her mounting debt, she began working on her own as a substitute teacher on August 18, 2003. *Statement from Applicant*, at 9, dated May 12, 2006. The applicant took a loan with a credit union for \$15,000 to repay her debt in the Philippines. *Id.* at 11. The applicant attempted to pay off her debt to Blue Pacific, but after accepting \$14,550 from her they claimed she still owed approximately \$2,280, contrary to their original agreement. *Id.* at 12.

The applicant described her efforts to work with U.S. agents in investigating and her associates, including recording their phone conversations. *Id.* at 10. The applicant indicated that law enforcement agents raided apartments under control, and suspected that the applicant was involved. *Id.* at 12. The applicant stated that she was subpoenaed to testify against and her associates. *Id.* at 13. A U.S. Immigration and Customs Enforcement ("ICE") Agent took

her to [REDACTED] Mexico so that she could cross the border and then be paroled back into the United States for public benefits. *Id.*

The applicant stated that she still owes money to Blue Pacific and relatives in the Philippines. *Id.* at 13-14. She fears she or her cousin could be jailed due to her outstanding debt. *Id.* The applicant fears for her son and daughter's safety in the Philippines. *Id.* The applicant fears she and her family would be stigmatized should she serve time in jail. *Id.* She expressed that she might be re-victimized should she return to the Philippines with significant debt and need for money. *Id.* The applicant explained that she gave up her teaching position in the Philippines to come to the United States, and that she would have to reapply and start from the bottom should she attempt to return. *Id.*

The applicant stated that she fears agents of Omni and Blue Pacific may take retribution against her for working with law enforcement agents in the United States. *Id.* The applicant provided that she wishes to pursue civil action against her traffickers in the United States once criminal proceedings conclude.

In a separate statement, the applicant confirmed that she signed a loan document and contract with Omni and Blue Pacific, but that she was refused copies of the documents. *Statement from Applicant*, dated December 8, 2006. The applicant stated that she wishes to stay in the United States to see a therapist. *Id.* at 2. She explained that she would be unable to afford the services of a therapist in the Philippines. *Id.* The applicant provided that an ICE agent informed her that Blue Pacific filed suit against one of the teachers for non-payment, and she fears similar action against her should she return to the Philippines. *Id.*

Counsel asserts that the center director failed to give adequate weight to the evidence provided by the applicant. *Brief from Counsel* at 5-15. Counsel contends that the record shows that the applicant was subjected to debt bondage, involuntary servitude and peonage, and thus she was a victim of human trafficking. *Id.* at 14-22. Counsel highlights evidence provided by the applicant, including the LEA Endorsement, the indictment against the applicant's traffickers, and a News Release from the U.S. Attorney's Office. *Id.* at 5-15.

Counsel asserts that the applicant is in the United States on account of the trafficking scheme to which he was subjected. *Id.* at 28.

Counsel contends that the applicant will suffer extreme hardship involving unusual and severe harm should she be removed from the United States. *Id.* at 22-28. Counsel asserts that the applicant requires access to the U.S. criminal and civil justice systems in order to seek redress from her traffickers. *Id.* at 23-24. Counsel reiterates the applicant's statement that, at the conclusion of criminal proceedings against her traffickers, she intends to seek the services of an attorney to pursue legal action against Ms. Tolentino and her associates. *Id.* at 23.

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 24. Counsel points out that the applicant stated that her traffickers harassed her and her cousin after the applicant escaped them. *Id.* Counsel references the indictment against the applicant's traffickers to support that other teachers have expressed fear of retaliation from Blue Pacific and possible imprisonment by Philippine authorities. *Id.* Counsel asserts that the applicant could be jailed in the Philippines due to her outstanding debt, where she may be subjected to harsh and life-threatening conditions. *Id.* at 27.

Counsel contends that the applicant suffered psychological consequences due to her trafficking experience, and that she intends to seek counseling. *Id.* at 25-26. Counsel asserts that the applicant does not bear the burden of submitting documentation to show that she has already received counseling in order for her emotional suffering to be properly considered in the present proceeding. *Id.*

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 she has been a victim of a severe form of trafficking in persons, and that her physical presence in the United States is on account of a severe form of human trafficking in persons, as required by sections 101(a)(15)(T)(i)(I) and (II) of the Act. However, the applicant has not shown that she 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 she is a victim of a severe form of human trafficking. Specifically, the applicant submitted an LEA Endorsement that describes the harms to her. 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 her experiences.

The record contains secondary evidence that establishes that [REDACTED] and her associates held the applicant in a position of involuntary servitude. [REDACTED] created a scheme that caused the applicant to believe that if she did not continue to follow her instructions and remain under her control, the applicant 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 the applicant 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 the applicant's economic need to coerce her to perform labor without compensation. Specifically, the applicant performed tasks for the Gandara Group, including making telephone calls to coordinate the transportation needs of teachers. The applicant further performed labor for [REDACTED] including providing childcare for approximately five hours per day, assisting her with errands such as carrying her bags at the grocery store, washing dishes, cleaning, and cooking. **The applicant was not paid for these tasks. It is evident that, but for the applicant's perceived dependence on [REDACTED] and [REDACTED] she would not have performed labor for the Gandara Group or [REDACTED] without compensation.**

It is significant that the applicant performed such labor after being subjected to substantial emotional distress due to being defrauded, residing in unfavorable conditions, facing possible deportation, and being separated from her native country and family. The applicant reasonably believed that if she did not follow [REDACTED]'s instructions, she would face legal consequences including deportation and debt collection. The AAO finds that the conditions under which the applicant performed labor for the Gandara Group or [REDACTED]

[REDACTED] constituted involuntary servitude. 8 C.F.R. § 214.11(a). On this basis, the applicant has established that she 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] by taking a loan with Blue Pacific Holdings. The applicant asserts that Blue Pacific Holdings operates in collusion with [REDACTED] and [REDACTED]. Counsel suggests that debt owed to Blue Pacific constitutes debt owed to [REDACTED]. However, the record does not clearly reflect that Blue Pacific and Omni (as represented by [REDACTED]) are the same organization, such that debt owed to Blue Pacific constitutes debt owed to those who sought the applicant's labor.

Further, the record does not reflect that the applicant pledged her personal services as a security for the debt she accrued with Blue Pacific. The record suggests that such debt was 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 this loan 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 the applicant's situation debt bondage. However, as the applicant has shown that she was subjected to involuntary servitude, she has shown that she was the victim of a severe form of trafficking in persons, as discussed above.

The applicant has shown that she is physically present in the United States on account of the trafficking incident she experienced. Section 101(a)(15)(T)(i)(II) of the Act. As of February 2, 2006, at the time the LEA Endorsement was executed, the applicant was working with U.S. law enforcement agents to investigate and prosecute her traffickers, and she received a subpoena to testify in court on January 19, 2007. *LEA Endorsement at 2; Subpoena from United States District Court for the Western District of Texas*, dated November 21, 2006. As the applicant filed the present application on July 20, 2006, it is reasonable that she remained in the United States as of that time, and continues to remain in the United States, on account of the trafficking scheme she 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 she would suffer extreme hardship involving unusual and severe harm should she be removed from the United States. Section 101(a)(15)(T)(i)(IV) of the Act. Counsel contends that the applicant will suffer extreme hardship involving unusual and severe harm should she return to the Philippines. Counsel asserts that the applicant requires access to the U.S. criminal and civil justice systems in order to seek redress from her traffickers. Counsel reiterates the applicant's statement that, at the conclusion of criminal proceedings against her traffickers, she intends to seek the services of an attorney to pursue legal action against [REDACTED] and her associates. Yet, it is noted that the record contains no evidence that the applicant has contacted litigation counsel or filed a civil complaint against her traffickers, thus her departure from the United States would not disrupt any pending action.

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

Counsel further states that there is a likelihood that the applicant's traffickers or others acting on their behalf would severely harm the applicant. Counsel points out that the applicant stated that her traffickers harassed her and her cousin after the applicant escaped them. Yet, the applicant's husband, children, mother, and cousin reside in the Philippines, and the record contains no indication that Blue Pacific, [REDACTED] or [REDACTED] [REDACTED] have sought to harm them there. The AAO does not find sufficient explanation to show that Blue Pacific's act of contacting the applicant's cousin, as co-signor on the applicant's loan, in a debt collection effort to reflect that they intend to harm the applicant or any of her family members.

Counsel references the indictment against the applicant's traffickers to support that other teachers have expressed fear of retaliation from Blue Pacific and possible imprisonment by Philippine authorities. However, the fact that other teachers share the applicant's concern regarding possible retaliation from Blue Pacific, [REDACTED] or [REDACTED] does not reflect that such harm has or will occur. The applicant was allegedly informed that Blue Pacific brought action against a teacher in the Philippines, yet without sufficient detail regarding the action, the AAO cannot determine whether Blue Pacific would take similar measures against the applicant.

Counsel asserts that the applicant could be jailed in the Philippines due to her outstanding debt, where she may be subjected to harsh and life-threatening conditions. Yet, the record contains no evidence or indication that victims of human trafficking, such as those in the applicant's circumstances, have been imprisoned by Philippine authorities. Counsel references a report from the U.S. Department of State regarding conditions in the Philippines to support that the applicant may face harsh prison conditions in the Philippines. However, this report reflects that the government of the Philippines passed a comprehensive 2003 anti-trafficking law that imposes stiff penalties for convicted offenders, and that efforts are made to investigate and prosecute traffickers. *Country Reports on Human Rights Practices, Philippines*, U.S. Department of State, at 10-11, dated March 8, 2006. The report notes that anti-trafficking initiatives in the Philippines are not fully successful, but that the government devotes significant resources to assist and protect victims. *Id.* The report indicates that a case was filed under the anti-trafficking law against suspected traffickers of four Filipina women who were trafficked to Malaysia, and that eight offenders received sentences up to life imprisonment during 2005. *Id.* at 10. The report states that "[t]he concept of a trafficked person as a victim rather than a perpetrator was strong." *Id.* at 11. Thus, the report from the U.S. Department of State suggests that the government would not take action against the applicant as a result of debt incurred in the course of the trafficking scheme. The report further supports that the applicant could pursue action against her traffickers in the Philippines.

Counsel contends that the applicant suffered psychological consequences due to her trafficking experience, and that she intends to seek counseling. Counsel asserts that the applicant does not bear the burden of submitting documentation to show that she has already received counseling in order for her emotional suffering to be properly considered in the present proceeding. The AAO acknowledges that the applicant has endured emotionally difficult circumstances, and it is reasonable that she would seek counseling. Yet, the record does not contain adequate evidence to show the applicant's current mental health, such as an evaluation from a mental health professional, or the level of care she may require in the future. Thus, the applicant has not established that she requires care that is unavailable to her in the Philippines.

The applicant expressed concern regarding her financial circumstances should she return to the Philippines. She indicated that she bears the responsibility of supporting her disabled husband and two children, and she

would be unable to recover her prior status as an established teacher in the Philippines. However, the applicant has not provided documentation to show, her previous or prospective compensation as a teacher in the Philippines, such that the AAO can assess her potential financial means. Nor has the applicant provided an account of her estimated regular expenses in the Philippines that would allow the AAO to determine whether she would have adequate means of subsistence while repaying her remaining debt. Nor has the applicant submitted medical documentation, affidavits from family members, or other evidence that would support that her husband is disabled and lacks the ability to contribute to her family's resources. Without adequate documentation and information, the AAO cannot conclude that the applicant would endure financial hardship that would place her at risk of re-victimization. Nor has the applicant established that she would suffer economic hardship that itself would constitute extreme hardship involving unusual and severe harm.

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

Conclusion

Based on the foregoing, the applicant has established that she has been a victim of a severe form of trafficking in persons, and that her physical presence in the United States is on account of a severe form of human trafficking in persons, as required by sections 101(a)(15)(T)(i)(I) and (II) of the Act. However, the applicant has not shown that she would experience extreme hardship involving unusual and severe harm should she 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 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.