

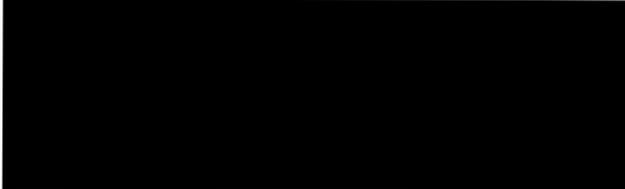
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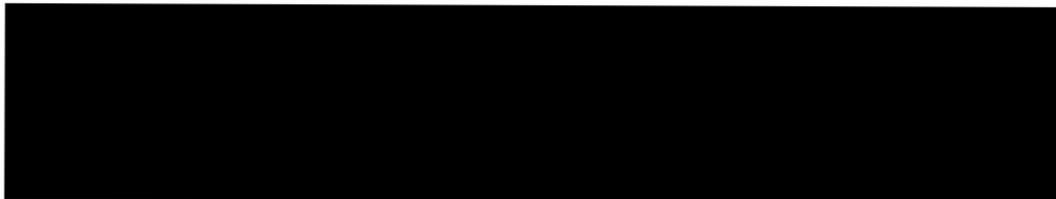
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FILE:  VERMONT SERVICE CENTER Date: SEP 06

IN RE: Applicant: 

APPLICATION: Application for T Nonimmigrant Status under section 101(a)(15)(T)(i) and 214(n) of the Immigration and Nationality Act, 8 U.S.C. §§ 1101(a)(15)(T)(i) and 1214(n).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

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

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The applicant is a native and citizen of the Philippines who last entered the United States on July 4, 2003 pursuant to a B-1/B-2 visa, in order to serve as a live-in domestic worker in a private home. The applicant stated that her employers did not pay her the agreed upon wage, permit her sufficient time off, or otherwise honor the terms of their employment agreement. 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 January 24, 2006. On March 20, 2006, the center director issued a letter informing the applicant of his intent to deny the application, requesting that the applicant provide additional evidence to support her claim. 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 August 3, 2006. Specifically, the director found that the applicant failed to show that: (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) the applicant would suffer extreme hardship involving unusual and severe harm upon removal.

On appeal, counsel for the applicant contends that that applicant has submitted sufficient evidence to establish that she was a victim of human trafficking, and that the applicant is eligible for a T visa. *Brief from Counsel on Appeal*, dated October 3, 2006. Counsel asserts that the center director's denial was based on erroneous conclusions of law, erroneous statements of fact, and a misapplication of the Trafficking Victims Protection Act of 2000 and 8 C.F.R. § 214.11. *Statement from Counsel on Form I-290B*, submitted September 5, 2006. Counsel contends that the center director abuse his discretion by failing to consider all factors presented by the applicant and distorting important aspects of the claim. *Id.* (citing *Nyonzele v. I.N.S.*, 83 F.3d 975 (8<sup>th</sup> Cir. 1996)). Counsel requests oral argument pursuant to 8 C.F.R. § 103.3(a)(4)(b) and (a)(7). *Id.*

The record contains statements from counsel; statements from the applicant; a statement from [REDACTED] a case worker for International Institute of Boston; two letters from representatives of the Asian Task Force Against Domestic Violence, [REDACTED] and [REDACTED] a psychiatric report from a doctor certified in psychiatry, [REDACTED] a copy of the applicant's birth certificate; a copy of an employment contract between the applicant and her employers; medical records for the applicant; statements from two of the applicant's friends; a copy of a letter from an attorney for the applicant's employers; a copy of a check written to the applicant by her employers, and a copy of a statement from the applicant's former counsel who assisted her in obtaining her passport and additional payment from her employers. The entire record was reviewed and considered in rendering a decision on the appeal.

Counsel requests oral argument in the present matter. The regulations provide that the requesting party must explain in writing why oral argument is necessary. Furthermore, Citizenship and Immigration Services has the sole authority to grant or deny a request for oral argument and will grant argument only in cases involving unique factors or issues of law that cannot be adequately addressed in writing. *See* 8 C.F.R. § 103.3(b). In this instance, counsel identified no unique factors or issues of law to be resolved that cannot be adequately

addressed in writing. The applicant has had sufficient opportunity to enter documentation into the record to present the facts and legal issues in her case. Consequently, the request for oral argument is denied.

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*, (4<sup>th</sup> 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 (4<sup>th</sup> 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.

The applicant has not submitted a Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, Form I-914 Supplement B, documentation from U.S. Immigration and Customs Enforcement (“ICE”) granting her continued presence in accordance with 28 C.F.R. § 1100.35, or other primary evidence that she is a victim of a severe form of human trafficking.

As secondary evidence, the applicant submitted statements in which she explained the facts of her case. The applicant stated that she was one of 18 children in her family, and her family experienced financial difficulty

causing her to work at a young age. *Statement from Applicant*, dated January 9, 2006. The applicant explained that she traveled to Singapore in 1999 where an agency arranged employment for her with a married couple [REDACTED] and [REDACTED] as a domestic servant for approximately three years. *Id.* at 1. The applicant stated that [REDACTED] lived with their two children in a flat with four bedrooms and four bathrooms, thus she had numerous tasks to perform lasting typically from 6:00am until 10:00pm. *Id.* at 2. She noted that her duties included cooking, cleaning, doing laundry, addressing the needs of guests, serving at parties, shopping, and providing childcare, and she had two days off per month. *Id.* The applicant explained that when [REDACTED] relocated to a larger flat with four bedrooms and six bathrooms, they increased her salary by approximately 30 percent. *Id.* The applicant stated that she received a medical visit every six months through the employment agency, which was required for her swollen feet. *Id.*

The applicant provided that [REDACTED] convinced her to come to the United States with them and their children where they would pay her \$6.00 per hour with overtime for hours worked over 42 hours per week, 14 days of paid vacation and 14 days of paid sick leave per year, seven days off for religious and national holidays, medical insurance, and a \$1,000 bonus per year. *Id.* at 3. The applicant had reservations about moving to the United States, but she desired to make more money to help her family. *Id.* at 3. She signed an employment contract with [REDACTED]. *Id.* They gave her a vacation to the Philippines for two weeks to visit with her family and to prepare to depart for the United States. *Id.*

The applicant stated that, upon her arrival in the United States, [REDACTED] asked for her passport. *Id.* She indicated that she felt that [REDACTED] did not trust her, as she had been permitted to keep her passport in Singapore. *Id.* at 3-4. The applicant stated that [REDACTED] house in the United States had three floors with four bedrooms and four bathrooms. *Id.* at 4. The applicant stated that she had the same duties in the United States that she had in Singapore, yet there were more cleaning tasks. *Id.* at 4-5. She indicated that, however, [REDACTED] informed her that they could not pay her the amount they agreed upon. *Id.* at 4. [REDACTED] instead paid her \$500 per month, which the applicant estimated to be approximately half of the agreed upon rate. *Id.* [REDACTED] informed the applicant that they would pay her more when they could afford it. *Id.* [REDACTED] further told the applicant that they were putting \$100 from each paycheck in a savings account for her, yet the applicant had not taken measures to open an account and she was concerned regarding where the money was going. *Id.* The applicant stated that she felt betrayed, but she thought she could not leave [REDACTED] because they had her passport and she did not know where to go. *Id.* The applicant explained that [REDACTED] were inconsistent in the amount they paid her. *Id.* For example, the applicant noted that at times [REDACTED] would pay her \$350 and tell her that she would pay the remaining amount at a later date or deposit it in the applicant's savings account. *Id.*

The applicant stated that she was only given two half-days off instead of two full days. *Id.* at 6. The applicant indicated that [REDACTED] had her assist a friend with a wedding and event planning business, which required the applicant to pack up items and serve as a waitress. *Id.* The applicant explained that she was given \$20 to \$40 additional pay for this extra work, and she remained responsible for her regular duties. *Id.*

The applicant stated that she began to develop stomach pains, but that [REDACTED] did not assist her in obtaining medical care. *Id.* One of the applicant's friends encouraged her to see a doctor who prescribed her medication to prevent excess acid in the stomach. *Id.* The doctor instructed her to take it regularly, but the applicant stated that it was expensive and she didn't take it as often as suggested. *Id.* The applicant indicated that she feared taking a day off because she knew her salary would be cut. *Id.*

The applicant stated that, in April 2004, [REDACTED] raised her salary to \$750 per month. *Id.* She indicated that she requested that [REDACTED] return her savings so that she could send it to her father due to his health problems. *Id.* She stated that [REDACTED] only gave her a portion of her savings, and did not properly explain why they could not give all of it to her as requested. *Id.* The applicant stated that she expressed a desire to return to the Philippines to [REDACTED] and they told her they would raise her salary to \$900 per month. *Id.* However, [REDACTED] only paid her \$750 per month, and the applicant felt betrayed. *Id.* The applicant requested Sundays off, and [REDACTED] told her she had to stay home and provide childcare. *Id.* at 7.

The applicant stated that, when [REDACTED] went on trips, they gave her passport to their friends. *Id.* They told the applicant that without them and the applicant's visa obtained to work for them, the applicant would be arrested by police. *Id.* The applicant stated that she experienced fear when she was not with [REDACTED] and [REDACTED] as a result. *Id.* The applicant stated that [REDACTED] told her not to do anything "bad" that could affect [REDACTED] position, and this caused her fear despite her friend's reassurance. *Id.*

The applicant stated that she received a bill of \$266 for her medical care, and when she presented it to [REDACTED] [REDACTED] she told the applicant not to tell [REDACTED] or he would get mad. *Id.* The applicant paid the bill with her own savings. *Id.*

The applicant stated that she contacted a taskforce hotline number at the suggestion of her friend, and she met with a representative [REDACTED] in December 2004. *Id.* at 7-8. On February 6, 2005, the applicant left [REDACTED] [REDACTED] on one of her days off and began staying in a shelter arranged by Roshan. *Id.* at 8. The applicant explained that she met with U.S. Immigration and Customs Enforcement and U.S. Bureau of Investigation agents, yet she was eventually told that the investigation on her case was closed and the U.S. Attorney declined prosecution. *Id.* The applicant indicated that [REDACTED] returned her passport. *Id.*

The applicant stated that she fears returning to the Philippines because [REDACTED] have significant financial resources and they can pay someone to harm her. *Id.* She indicated that [REDACTED] told her she should not run away from them because "immigration has [her] papers" and [REDACTED] would inform the police. *Id.* The applicant stated that she fears no one would protect her in the Philippines because she does not have much money. *Id.*

The record reflects that an attorney for the applicant contacted [REDACTED] with a complaint, and [REDACTED] and [REDACTED] paid the applicant \$14,400 as compensation for unpaid wages. *Statement from Applicant*, dated July 12, 2006; *Letter from Counsel for [REDACTED]*, dated September 26, 2005. Counsel for [REDACTED] stated that they believe that the \$14,400 covers all unpaid wages as agreed in the applicant's employment contract, including overtime and an hourly differential of \$.75 for all hours worked. *Letter from Counsel for [REDACTED]* at 1.

The record contains a statement from [REDACTED] a case worker for the International Institute of Boston, in which she recounts the facts of the applicant's case as she learned them from the applicant. *Statement from [REDACTED]* dated January 5, 2006. [REDACTED] reported that the applicant exhibited psychological symptoms including nightmares, crying spells, and feelings of low self-esteem. *Id.* at 2. The record contains two letters from representatives of the Asian Task Force Against Domestic Violence, [REDACTED] and [REDACTED] *Statement from [REDACTED]* dated February 24, 2006; *Statement from [REDACTED]*, dated February 21, 2006. Both of these statements recount facts of the applicant's case as

told by the applicant, and they described services the applicant received after she departed [REDACTED]

The record contains a psychiatric report from a doctor certified in psychiatry, [REDACTED] in which [REDACTED] analyzed the applicant's emotional state. *Report from [REDACTED] dated July 17, 2006.* [REDACTED] observed that the applicant exhibited stress-related symptoms, and "it appears that [the applicant] developed Major Depression while working for the [REDACTED] family in the United States." *Id.* at 2-3. [REDACTED] stated that the applicant's long work hours and "constant emotional and verbal abuse," combined with the fact that she was "very isolated and she did not know her rights," made her vulnerable to psychological coercion and exploitation. *Id.* at 3. [REDACTED] reported that the applicant stated that [REDACTED] son made abusive remarks to her, and [REDACTED] did not correct his behavior. *Id.* at 4. [REDACTED] indicated that the applicant reported that she has a history of peptic ulcers. *Id.* at 5. [REDACTED] expressed the opinion that the applicant will require further mental health care. *Id.* at 5-6.

The applicant submitted a statement from a friend, [REDACTED], in which [REDACTED] stated that she was aware that [REDACTED] were treating the applicant poorly. *Statement from [REDACTED], dated June 10, 2006.* [REDACTED] recounted that [REDACTED] became angry on one occasion when she attempted to visit the applicant at their house, and [REDACTED] told the applicant she could not have visitors. *Id.* at 1. [REDACTED] stated that she saw the applicant in her home but that it was difficult to arrange due to the limited time the applicant had off. *Id.* [REDACTED] stated that the applicant had to sneak away from [REDACTED] to call her. *Id.* [REDACTED] stated that when she met the applicant, she had to pick her up and drop her off away from [REDACTED] s house so they didn't see. *Id.* [REDACTED] recounted an occasion when the applicant called her for help because [REDACTED] had left on vacation and the applicant had no transportation to get food. *Id.* [REDACTED] reported that the applicant only received \$500 per month for her work. *Id.* She stated that the applicant expressed fear of going to jail if she tried to leave [REDACTED] *Id.*

The applicant submitted a statement from another of her friends, [REDACTED] in which [REDACTED] recounted the facts of the applicant's experiences as he learned from the applicant. *Statement from [REDACTED], dated June 17, 2006.* [REDACTED] indicated that he encouraged the applicant to call the Asian Taskforce Hotline, as he perceived that her employment situation was abusive. *Id.* at 1. He stated that the applicant was afraid to leave [REDACTED] due to her concern that they would "get her in trouble with the law." *Id.*

Upon review, the applicant has not established that she has been the victim of a severe form of trafficking in persons. The applicant came to the United States to work as a live-in domestic employee, yet her employers did not honor the terms of their employment agreement. The applicant worked in the United States under strenuous conditions with little time off. However, the applicant has not submitted sufficient documentation to establish by a preponderance of the evidence that her employers subjected her to sex trafficking, or that they brought her to the United States for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(B).

It is noted that the applicant voluntarily worked for the same employers for three years in Singapore performing similar duties on a similar schedule. While the applicant explained that her work in Singapore was arduous, she did not indicate that she felt coerced to continue in her position, or that she wished to separate from her employers. The applicant's employers offered her a significantly better position in the

**United States, including more pay and benefits.** The applicant stated that she had reservations about relocating to the United States, but that the increased compensation and improved working hours enticed her to move with her employers. The record supports that the applicant's employers did not pay her according to the terms outlined in their employment contract. However, the record lacks sufficient evidence to support that they intentionally misled the applicant by offering her a salary and benefits package that they did not plan to honor.

The applicant stated that her employers told her that they would pay her additional money when they could. She explained that, after approximately nine months, her employers raised her pay from \$500 to \$750 per month. This fact suggests that the applicant's employers did intend to increase her pay gradually. While \$750 does not satisfy the terms of the employment contract, it appears that the applicant's employers took steps to bring her pay closer to their original agreement.

The record establishes that the applicant had a contract dispute with her employers, as they failed to honor the terms of their employment agreement. The applicant obtained the assistance of an attorney in order to settle the dispute, and her employers paid her \$14,400 as compensation for unpaid wages. While it is unclear whether the applicant's employers would have attempted to satisfy their contractual obligations in the absence of threatened legal action, the record shows that they have made an effort to compensate the applicant for her unpaid or underpaid labor. A letter from the applicant's employers' attorney submitted with the \$14,400 payment to the applicant states that the payment was made unconditionally, and that the applicant's employers sought no waiver or release from the applicant. Thus, the record suggests that the applicant's employers did intend to pay the applicant additional funds when possible.

The record contains statements regarding the conditions in which the applicant worked, and restrictions on her actions and time. Yet, the record lacks sufficient detail to show that the applicant's employers engaged in an intentional a pattern to coerce and control her in order to subject her to involuntary servitude, peonage, debt bondage, or slavery. For example, the applicant indicated that she experienced stomach pains, but that she didn't ask for time off because she knew her pay would be reduced. However, the applicant did not describe any situations where she requested time off and received a reduction in pay as a result. Thus, the AAO is unable to determine whether the applicant's employers would have permitted her to take time for sickness if she requested it.

The applicant's friend, [REDACTED] described an incident in which the applicant's employers refused to allow her to visit the applicant, and they told the applicant she could not have visitors. However, the applicant has not provided sufficient detail regarding this incident such that the AAO can determine if it represents an ongoing effort to coerce and control the applicant. The applicant or [REDACTED] have not fully described the incident, such as whether [REDACTED] was attempting to visit during normal working hours when the applicant could reasonably be expected to be performing duties. Nor has the applicant explained whether her employers forbid her to have a visitor on that occasion at that hour, or whether they forbid her to have visitors at any time. [REDACTED] stated that she would pick the applicant up and drop her off away from the applicant's employers' home, implying that the applicant's employers would not permit the applicant to depart the house with others. However, the fact that the applicant was departing the house, presumably unaccompanied, suggests that she was permitted to leave and spend her time with whom she chose.

described an incident where the applicant called her for assistance because she was left without food or transportation when her employers were out of town. Yet, the applicant has not provided sufficient explanation of this incident in order for the AAO to draw the inference that the applicant's employers routinely deprived her of basic necessities or left her stranded with unmet needs as a means of coercion or control.

The applicant stated that her employers told her she would go to jail if she left them, and that this fact caused her fear. Yet, as the applicant's immigration status was in fact based on her employment with her employers, it is not inaccurate that the applicant could face legal consequences should she have departed her employers and remained in the United States without a legal immigration status. The applicant has not provided sufficient explanation to establish whether her employers used legal consequences of the applicant's immigration status as coercion to keep her under their control, or whether they intended only to communicate realistic immigration ramifications of the applicant's actions.

The applicant explained that, at one point, she informed her employers that she wished to return to the Philippines. She stated that her employers offered to raise her pay to \$900 per month if she would remain. The applicant agreed to stay for the increased amount, yet her employers continued to pay her \$750 per month. This incident suggests that the applicant was free to depart her employers if she chose. She did not describe any potentially harmful consequences that would have resulted should she have decided to return to the Philippines. The applicant determined that an increase of \$150 per month was sufficient for her to continue her employment. This incident reflects that the applicant remained in her employment by her own choice, not due to coercion by her employers that rises to the level of involuntary servitude, peonage, debt bondage, or slavery.

The record contains statements from another of the applicant's friends, [REDACTED] yet [REDACTED] largely relates the facts of the applicant's experiences as he learned them from the applicant. [REDACTED] does not claim to have direct experiences with the applicant's employers such that he can attest to their actions.

The psychiatric report from [REDACTED] stated that the applicant's long work hours and "constant emotional and verbal abuse," combined with the fact that she was "very isolated and she did not know her rights," made her vulnerable to psychological coercion and exploitation. The fact that the applicant would have been vulnerable to psychological coercion and exploitation does not establish that the applicant's employers intended to coerce her into a position of involuntary servitude, peonage, debt bondage, or slavery. The applicant's employers' actions and intentions, not the applicant's reaction to her circumstances, determines whether the applicant was brought to the United States for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(B).

[REDACTED] reported that the applicant stated that her employer's son made abusive remarks to her, and her employers did not correct his behavior. Yet, the record contains no other references to the applicant's employers' son's actions or treatment of the applicant. Thus, the AAO lacks sufficient explanation to determine if such actions were part of an attempt to keep the applicant in her employment situation against her will.

The AAO acknowledges that the duties of a live-in domestic employee are significant. The example workday that the applicant described requires ongoing duties from 6:00am to 10:00pm, with several breaks ranging from 30 minutes to one hour. The record supports that the applicant worked long hours with little time off,

and she was not paid under the agreed upon terms. However, the applicant has not established by a preponderance of the evidence that her employment situation constituted involuntary servitude, peonage, debt bondage, or slavery, as contemplated by the Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(B). While the applicant states that she was dissatisfied with her employment, she has not shown that she was held against her will through physical or psychological control. Harsh or unfavorable working conditions do not, by themselves, render an employment relationship to be a severe form of trafficking in persons. Based on the foregoing, the applicant has failed to submit sufficient 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. The record shows that the applicant traveled to the United States pursuant to a employment agreement in order to continue with employers for whom she had voluntarily worked in a similar capacity for three years. The applicant has not shown that her employers brought her to the United States for the purpose of subjecting her to a severe form of trafficking in persons, as discussed above.

Further, the applicant has failed to establish that she would suffer extreme hardship involving unusual and severe harm upon return to the Philippines, as required by section 101(a)(15)(T)(i)(IV) of the Act. The applicant expressed fear that her employers may take action against her. However, the record contains no indication that the applicant's employers have taken measures to harm her due to her leaving their employment. In fact, the only evidence in the record that reflects that applicant's employers' treatment of the applicant since she departed consists of a check they wrote to her in the amount of \$14,400, and a letter from their attorney. The applicant has not described any previous incidents that suggest her employers have a propensity to harm her abroad.

The applicant has not articulated any other factors that would result in extreme hardship involving unusual and severe harm should she return to the Philippines, thus she has not satisfied the requirements of section 101(a)(15)(T)(i)(IV) of the Act.

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 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.