

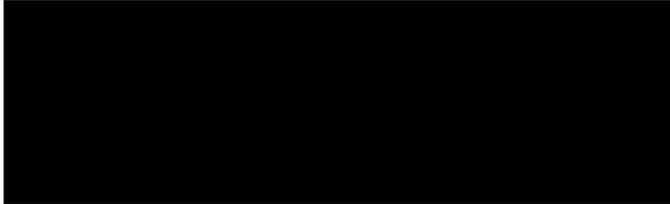
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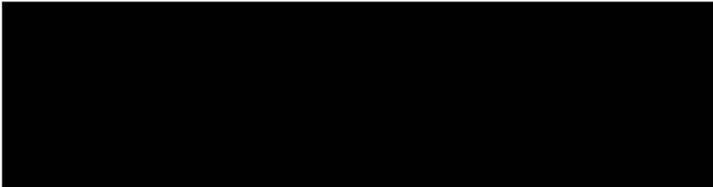
Applicant:



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 China who was paroled into the United States on November 18, 2004 as a material witness upon her attempt to enter without inspection. The applicant asserts that she was being transported to the United States pursuant to a trafficking scheme. 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 February 2, 2006. On April 12, 2006, the center director issued a Form I-917, Notice of Action, requesting that the applicant provide additional evidence to support her application. The applicant provided additional documentation, yet the center director found that the applicant failed to overcome the issues addressed in the Notice of Action and denied the application accordingly. *Decision of the Center Director*, dated October 20, 2006. Specifically, the center 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 has complied with any reasonable request for assistance in the investigation or prosecution of acts of severe forms of trafficking in persons.

On appeal, counsel for the applicant contends that the applicant was a victim of human trafficking, and that she is eligible for a T visa. *Statement from Counsel on Appeal*, dated November 17, 2006. Counsel asserts that the center director made factual errors in denying the application. *Id.* at 1-2.

The record contains statements from counsel; statements from the applicant; a U Visa Certification Form executed by a San Diego County Sheriff's Deputy; the applicant's birth record; a psychological evaluation of the applicant; documentation in connection with criminal action against an individual who attempted to smuggle the applicant in to the United States; correspondence from counsel to the U.S. Federal Bureau of Investigation (FBI); reports on human trafficking; evidence that the applicant was designated a material witness by U.S. Customs and Border Protection (CBP), and; a copy of a fraudulent Korean passport held by the applicant. The entire record was reviewed and considered in rendering a decision on the appeal.

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, [REDACTED] 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., [REDACTED] 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.

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), nor did she explain why one was not submitted as required by Form I-914. The applicant further did not provide documentation from Citizenship and Immigration Services (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 explained that she worked in a restaurant for a man in China who offered to introduce her to someone who could arrange for her to obtain a visa to work in the United States. *Statement from Applicant*, dated October 21, 2005. The applicant stated that she contacted a woman, [REDACTED] who told her she could go to the United States for approximately \$32,000 to work in a Korean restaurant in Los Angeles at a rate of approximately \$2,500 per month. *Id.* at 1. [REDACTED] told the applicant she could pay the \$32,000 fee over time with deductions from her pay. *Id.* The applicant made an initial payment of 4000 yuan as a fee for "a visa." *Id.*

The applicant traveled to a house operated by [REDACTED] where others were waiting to be transported to Japan, Korea, and the United States to work. *Id.* The applicant indicated that the others in the house had also paid [REDACTED]. *Id.* The applicant traveled with a man, [REDACTED] from [REDACTED] then Hong Kong, Bangkok, Kenya, South Africa, and Brazil. *Id.* The applicant stated that she was given instructions on how to act in the airports, and she was forbidden to talk to anyone. *Id.* In Kenya, [REDACTED] took her Chinese passport and gave her a Korean passport. *Id.* The applicant stated that, in Brazil, they visited a building with Korean names, and then traveled back to an airport. *Id.* The applicant provided that Gong took \$1,500 from her, and instructed her to report that she bought her Korean passport in China if asked. *Id.*

The applicant stated that she traveled from Brazil to Mexico City alone, where she took a taxi to a house operated as a Korean-style hotel. *Id.* She stayed at the hotel for nine days, where she was instructed to not go outside. *Id.* When she asked why she could not go outside, she was told “You will escape.” *Id.* The applicant stated that she then felt trapped. *Id.*

The applicant was flown to Tijuana where she was placed with a Korean family for one night. *Id.* She stated that the remainder of her money and her passport were taken. *Id.* The applicant was told they would be given to other people who would take her to the United States. *Id.* The applicant stated that she was told there was no where she could run, and that if she tried she would be found. *Id.* The applicant was taken to another house where she was told to wait. *Id.* at 2. She was transported in successive vehicles to a man who allegedly forced the applicant into a compartment under the back seat of a car. *Id.* The applicant stated that she was uncomfortable and in pain, yet the man became angry with her when she protested and told her to “shut up.” *Id.* The applicant stated that she was instructed to report that she was traveling alone if she was stopped by authorities, and that she would only be helped if she did not tell anyone about those who brought her to the United States. *Id.*

The applicant explained that she was discovered concealed in the car by U.S. officials at the border. *Id.* She indicated that she had gas burns on her legs and she was given oxygen because she had suffocated in the tank. *Id.* The applicant stated that she was paroled into the United States as a material witness, and the man who drove her to the United States was ultimately convicted. *Id.*

The applicant stated that, while she was in custody in a detention center in San Diego, [REDACTED] called her and instructed her not to say anything about her, how she got to the United States, or what she was going to do in the country. *Id.* The applicant stated that [REDACTED] called her brother in China and demanded [REDACTED] and told him that there is an outstanding debt of \$32,000. *Id.* The applicant stated that she now understands that [REDACTED] had sold her to someone to work in a restaurant, and that she is owned until the debt is paid off. *Id.*

The applicant stated that she fears returning to China, as [REDACTED] will hire someone to beat her if she does not repay the debt and the Chinese government will not protect her. *Id.* She further stated that the Chinese government may fine her and send her to a re-education camp for leaving China. *Id.*

The applicant indicated that, when she was initially making arrangements to come to the United States, she believed she was paying [REDACTED] for a legal visa and employment. *Id.* She stated that she was not aware that she would be “held against [her] will, robbed of [her] money and passport, and forced into a gas tank of a car.” *Id.* She stated that she was tricked and defrauded by her alleged traffickers. *Id.* The applicant indicated that, had she known the circumstances of her transport to the United States, she would not have left China. *Statement from the Applicant, dated July 5, 2006.*

The applicant described her efforts to work with law enforcement agents to investigate and prosecute her alleged traffickers. *Id.* The applicant stated that she “identified a photograph of one of [her] traffickers,” and that “[i]t is [her] understanding that the person whom [she] identified is part of a major human trafficking ring which is being investigated.” *Id.*

The record contains a statement from [REDACTED] an attorney who was appointed to represent the applicant in connection with her status as a material witness in the smuggling case against the man who transported the applicant to the United States. [REDACTED] dated July 5, 2006. Ms.

Gunner stated that the applicant exhibited emotional symptoms of trauma when she began working with her. *Id.* at 1. [REDACTED] reiterated the facts of the applicant's experiences in coming to the United States, as told to her by the applicant. *Id.* at 2-3. [REDACTED] expressed her opinion that it "appears that [the applicant] had been sold into slavery, and most likely was destined to go to [the] Los Angeles area to be forced into prostitution or labor." *Id.* at 2. [REDACTED] stated that she learned of the federal prosecution of a trafficking ring that involved the arrest of 45 people who were trafficking Koreans for the purpose of prostitution. *Id.* at 3. [REDACTED] described the applicant's cooperation with law enforcement agents, and she indicated that the applicant identified a person from a photograph who she had encountered in a drop house in Mexico. *Id.* at 3-4. [REDACTED] stated that she believes the applicant has information regarding the Korean trafficking ring operating out of China. *Id.* at 4.

The record contains a "U Visa Certification Form" from [REDACTED] for the San Diego County Sheriff's Department, in which he indicted that the applicant's case "may involve . . . abduction for purposes of prostitution . . . [and/or] false imprisonment." *U Visa Certification Form*, dated December 21, 2005.

The record contains an evaluation of the applicant from [REDACTED] a Marriage and Family Therapy Trainee. *Psychosocial Evaluation from [REDACTED]* dated June 11, 2005. The evaluation is also signed by [REDACTED] Clinical Director Catholic Charities Clinical Services, ostensibly [REDACTED] supervisor. *Id.* at 4. [REDACTED] stated that the applicant speaks Mandarin and Korean, and she understands some Japanese. *Id.* at 1. [REDACTED] stated that the applicant was a victim of rape by two assailants in China when she was approximately 18-years-old. *Id.* [REDACTED] reported that the applicant's father died of cancer, and her mother committed suicide as a result. *Id.* [REDACTED] stated that the applicant decided to travel to the United States, and he recounted the applicant's arrangements with [REDACTED] *Id.* at 1-2. He indicated that the applicant stated that she would receive free room and board in the United States, and she would work off her debt in a restaurant. *Id.* at 2.

In describing the applicant's transport to the United States, [REDACTED] stated that the applicant indicated that the man who drove her to the U.S. border was Mexican, and that she did not understand what the Mexican man was talking about when he spoke with a Korean man who was involved in her smuggling. *Id.* [REDACTED] provided that the applicant stated that she was pressed into a cut-out gas tank, and that one of her legs was burned "due to the gasoline that came into contact with her skin." *Id.* [REDACTED] reported that the applicant "appeared overwhelmed when talking about her mother's recent death and her own rape," and that "her symptoms have been exacerbated due to the fact that she was deceived and forced into entering the country illegally." *Id.* at 3. [REDACTED] expressed his opinion that the applicant is at risk of re-victimization should she return to China, and that her traffickers may find her in her home province." *Id.*

The record contains a criminal complaint against the man who drove the applicant to the United States. [REDACTED] dated November 19, 2004. Accompanying the complaint is a probable cause statement described the facts of the applicant's transport to the U.S. border. The probable cause statement provides that the applicant claimed that she purchased her fraudulent Korean passport in China. [REDACTED] at 2-3. The probable cause statement describes the compartment in which the applicant was hidden when she rode to the U.S. border – a non-factory compartment constructed of four small pieces of plywood that were held in place by four metal straps that were secured to the vehicle undercarriage. *Id.* at 2. The probable cause statement reported that the vehicle's

gas tank had been removed to make space for the compartment, and an alternate fuel holding tank had been constructed where the factory installed muffler would have been. *Id.*

Upon review, the applicant has not provided sufficient evidence to establish that she has been the victim of a severe form of trafficking in persons. As observed by the center director, the record lacks adequate direct evidence that the individuals who smuggled the applicant to the United States border intended to subject her to sex trafficking, involuntary servitude, peonage, debt bondage, or slavery. Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(B). The record reflects that the man who drove the applicant to the U.S. border pled guilty to one count under 8 U.S.C. § 1324 for “bringing in and harboring certain aliens.” *Memorandum from U.S. Customs and Border Protection*, dated August 2, 2006. However, the record does not show that this man was investigated for, or convicted of, engaging in human trafficking activities.

As discussed above, [REDACTED] stated that it “appears that [the applicant] had been sold into slavery, and most likely was destined to go to [the] Los Angeles area to be forced into prostitution or labor.” *Statement* [REDACTED] at 2. [REDACTED] reported her awareness of a large law enforcement operation to prosecute individuals involved in trafficking Koreans for prostitution, and she speculated that there was a connection with the trafficking ring and those who smuggled the applicant to the U.S. border. *Id.* at 3-4. However, though the applicant stated that Koreans were involved in smuggling her, she is a Chinese citizen of Korean descent, and reports of Koreans trafficked to the United States do not support that the applicant was a victim of human trafficking herself, absent additional evidence. The applicant assisted law enforcement agents in an investigation of those who smuggled her, yet the record contains no indication that such investigation uncovered or targeted human trafficking activities. [REDACTED] statements are speculative, and do not establish that the applicant was a victim of a severe form a human trafficking.

Also discussed above, the record contains a U Visa Certification Form from [REDACTED] in which he indicted that the applicant’s case “may involve . . . abduction for purposes of prostitution.” [REDACTED] *Certification Form* at 2. However, the form does not state a basis for [REDACTED] suspicion regarding the purpose for the applicant’s transport to the United States. [REDACTED] statement appears speculative and does not serve as evidence that the individuals who smuggled the applicant to the U.S. border intended to subject her to sex trafficking.

As referenced above, [REDACTED] reported that the applicant was enduring emotional hardship when he interviewed her. He recounted that the applicant was the victim of a rape and both of her parents had recently died. The AAO acknowledges that travel from China to the United States, particular in light of the path that the applicant allegedly took, is arduous. It is reasonable that the applicant would endure psychological distress in being smuggled to the U.S. border in the manner in which she traveled. The AAO acknowledges that the applicant has faced a number of traumatizing experiences. However, the fact that the applicant is in a state of distress does not establish that her smugglers intended to subject her to sex trafficking, involuntary servitude, peonage, debt bondage, or slavery.

The record contains statements that recount the facts of the applicant’s travel to the United States, including statements from counsel, [REDACTED], and [REDACTED]. However, the authors of these statements derived their knowledge of the applicant’s experiences through interviews with her. The record contains no statements from individuals who have a direct knowledge of the arrangements the applicant made in China, the applicant’s interactions with her alleged traffickers, or the applicant’s treatment during her travel to the United States. The applicant referenced the fact that [REDACTED] contacted her brother in China and demanded

\$5,000 from him, as well as informed him that there is a \$32,000 outstanding debt. However, the applicant has not submitted a statement from her brother to support this assertion. The record contains no documentation to reflect whether the individuals who smuggled the applicant have smuggled others, and if so, whether they subjected those they smuggled to sex trafficking, involuntary servitude, peonage, debt bondage, or slavery.

Thus, Citizenship and Immigration Services (CIS) must largely rely on the two statements from the applicant to determine whether the individuals who brought her to the U.S. border intended to subject her to sex trafficking, involuntary servitude, peonage, debt bondage, or slavery.

Affidavits from witnesses, including a principal applicant, may serve as sufficient evidence to show a fact by a preponderance of the evidence when they are sufficiently detailed, internally consistent, and consistent with the remaining evidence in the record. However, in the present matter, the applicant's statements raise questions of consistency regarding her treatment by and interaction with the individuals who smuggled her to the U.S. border.

For example, the applicant stated that the man who drove her to the U.S. border told her to "shut up." *Statement from Applicant* at 2, dated October 21, 2005. In the context of describing her encounter with this man, she stated that she was instructed to report that she was traveling alone if she was stopped by authorities, and that she would only be helped if she did not tell anyone about those who brought her to the United States. *Id.* However, [REDACTED] indicated that the applicant speaks [REDACTED] and she understands some Japanese. *Psychosocial Evaluation from [REDACTED]* at 1. [REDACTED] stated that the applicant indicated that the man who drove her to the U.S. border was Mexican, and that she did not understand what the Mexican man was talking about when he spoke with a [REDACTED] who was involved in her smuggling. *Id.* at 2. Thus, while the applicant's statement suggests that she understood and could communicate with the man who drove her to the U.S. border, [REDACTED] report suggests that the applicant did not speak the same language as the driver and thus she would not have been able to receive complex instructions. The applicant's communications with the driver are material, as they shed light on the applicant's treatment and the intentions of the individuals who smuggled her to the United States.

[REDACTED] provided that the applicant stated that she was pressed into a cut-out gas tank, and that one of her legs was burned "due to the gasoline that came into contact with her skin." [REDACTED] *from [REDACTED]* at 2. However, a probable cause statement that was annexed to the criminal complaint against the man who drove the applicant to the United States border describes the compartment where the applicant rode as a non-factory compartment constructed of four small pieces of plywood that were held in place by four metal straps that were secured to the vehicle undercarriage. *Complaint Against Jose Fernando Pellegrin-Ibarra* at 2. The probable cause statement reported that the vehicle's gas tank had been removed to make space for the compartment, and an alternate fuel holding tank had been constructed where the factory muffle would have been. *Id.* Thus, the record supports that the applicant was not in fact riding in a gas tank. The applicant's claim that she rode in a gas tank in which she sustained burns when she came into contact with gasoline is inconsistent with the description of the riding compartment contained in the probable cause statement. The applicant has provided no medical documentation or witness testimony to support that she sustained burns or injuries as a result of being stowed in a vehicle. This discrepancy is material, as it calls into question the veracity of the applicant's descriptions of the treatment she received by her smugglers. Reliable evidence of such treatment would shed light in her smugglers' intentions in bringing her to the United States.

The accuracy of the applicant's recounting of her interactions with her smugglers is in question. These interactions are crucial, as there is no direct evidence to show that the applicant's smugglers have engaged in, or intended to engage in, human trafficking. The manner of the applicant's arrival at the U.S. border is well-documented, and it has been established that she was involved in a smuggling operation. However, the record does not contain adequate documentation to show by a preponderance of the evidence that the applicant was brought to the United States for the purpose of subjection to sex trafficking, involuntary servitude, peonage, debt bondage, or slavery. **Trafficking Victims Protection Act, 22 U.S.C. § 7102(8)(B)**. 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 smuggling scheme, and she was paroled into the country to participate in the prosecution of a smuggler, yet she has failed to show that the scheme involved a severe form of trafficking in persons, as discussed above.

The center director found that the applicant failed to show that she has complied with any reasonable request for assistance in the investigation or prosecution of acts of severe forms of trafficking in persons. However, the AAO finds that the applicant has submitted sufficient evidence of her efforts to assist U.S. law enforcement agents in investigating and bringing action against her smugglers. Thus, the applicant has met the requirements of section 101(a)(15)(T)(i)(III) of the Act. The center director's finding in this regard will be withdrawn.

Beyond the decision of the center director, the applicant has failed to establish that she would suffer extreme hardship involving unusual and severe harm upon return to China, as required by section 101(a)(15)(T)(i)(IV) of the Act. The applicant expressed fear that [REDACTED] would seek to collect funds from her and her family members, or physically harm her. The applicant further expressed fear that the government of China would levy a fine against her and/or send her to a penal facility for departing China. However, as discussed above, the applicant has not sufficiently established the terms of her agreement with [REDACTED] or the facts of her transport to the United States. Nor has the applicant shown that [REDACTED] has sought to take action against her brother or family in China. The applicant has provided no documentation or reports that reflect that she would be targeted by the government of China for harm. [REDACTED] stated that the applicant expressed concern over possible stigmatization in China due to being the victim of rape, yet the applicant has not shown that she cannot reside in a location in China where her status as a victim of sexual violence would be unknown. The applicant has not articulated any other factors that would result in extreme hardship involving unusual and severe harm should she return to China, 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 her experiences, 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.