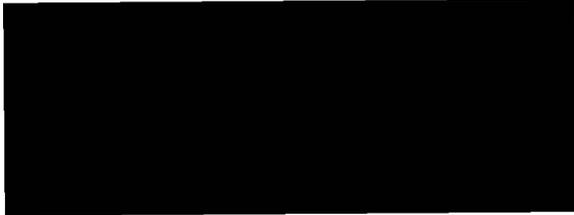


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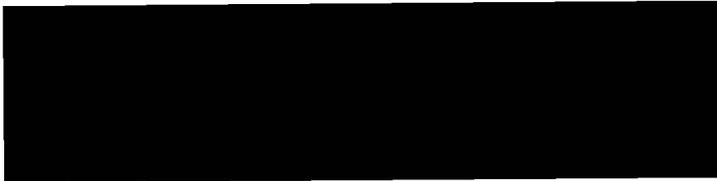
FILE: [REDACTED] VERMONT SERVICE CENTER

Date:

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:



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

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 Honduras who last entered the United States without inspection. After arrival, he began working for two individuals who failed to pay him as agreed, and allegedly held him against his will. 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 November 13, 2006. On December 29, 2006, the center director issued a Form I-797 Notice of Action requesting that the applicant provide additional documentation to support his 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 April 11, 2007. 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, the representative for the applicant contends that the center director failed to consider all of the evidence provided by the applicant. *Statement from Representative for Applicant on Form I-290B*, dated April 17, 2007. The representative for the applicant asserts that the center director imposed a higher standard on the applicant than what is required by the applicable statutes. *Id.* The representative for the applicant contends that the center director violated the applicant's due process rights, in that the applicant was not afforded sufficient opportunity to explain the absence of evidence. *Brief on Appeal*, submitted June 19, 2007. The representative for the applicant requests oral argument in the present matter. *Letter from Applicant's Representative*, dated April 17, 2007.

The record contains statements from the applicant's representative; statements from the applicant; a copy of the applicant's birth certificate; statements from an attorney from American Friends Service Committee, Elissa Steglich; a statement from an individual, [REDACTED]—attesting to the existence of a take out food business referenced by the applicant; photographs and hand-drawn maps of the take out food business where the alleged trafficking incident occurred; a statement from a licensed psychologist, [REDACTED] assessing the applicant's mental health; a letter from the U.S. Department of Justice, Civil Rights Division, stating that the applicant's case does not establish a prosecutable violation of the federal criminal civil rights statutes; a copy of the applicant's identification card from Honduras, and; a report on human rights conditions in Honduras. The entire record was reviewed and considered in rendering a decision on the appeal.

The representative for the applicant 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, the representative for the applicant 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 his 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 [REDACTED] 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 (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 he was held in a condition that involved his 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 him continued presence in accordance with 28 C.F.R. § 1100.35, or other primary evidence that he is a victim of a severe form of human trafficking.

As secondary evidence, the applicant submitted statements in which he explained the facts of his case. The applicant stated that he grew up in Honduras in poverty, which required him to begin working full-time at the age of eight years. *Statement from Applicant*, dated November 9, 2006. The applicant explained that, after the death of his mother and sister, he became responsible for his sister’s five children. *Id.* at 1. He stated that

he borrowed approximately \$5,000 from a private lender. *Id.* When the applicant was unable to repay the loan, his creditor "pistol whipped" him and told him "bad things were going to happen" if he did not pay within six months. *Id.* The applicant indicated that he began working with his father to cultivate his father's land. *Id.* He stated that he performed the work because he feared for his life. *Id.* The applicant stated that he worked with his father for four or five years, and that no harm came to him during that time. *Id.* The applicant stated that he decided to relocate to the United States as a precaution, and sold a small parcel of land and shared the proceeds with his siblings and the children of his deceased sister. *Id.*

The applicant indicated that he made his way to the United States border by passing through Guatemala and Mexico. *Id.* He stated that he crossed into the United States at Laredo, Texas with his friend, [REDACTED] *Id.* at 2. In the United States, the applicant encountered a man in a truck, [REDACTED], who offered to give him and [REDACTED] safe travel away from border patrol agents. *Id.* [REDACTED] and his wife, [REDACTED], offered to hire the applicant and [REDACTED] to work in a take out food business in exchange for \$35 weekly and room and board. *Id.* They agreed and began working. *Id.*

The applicant explained that the first night he and [REDACTED] slept on the living room floor of [REDACTED]'s home, but that thereafter they slept at the take out food business. *Id.* The applicant indicated that, when he and [REDACTED] slept at night, [REDACTED] locked them into the take out food business by locking the doors and windows from the outside. *Id.* The applicant stated that he was given two sandwiches per day but was required to pay for any additional food. *Id.* He indicated that he had to sleep on a hard floor with no mattress or cot. *Id.* The applicant stated that he began working at 4:30am and performed food preparation tasks until 6:00 or 7:00pm. *Id.* The applicant stated that he was not permitted to interact with customers because [REDACTED] was concerned that someone would "call the police or immigration." *Id.*

The applicant explained that he was paid \$35 for his first week of work, yet he had not been paid for two weeks thereafter. *Id.* He demanded money from [REDACTED] and she "screamed" at him that he owed her money for food, and that she was saving his money. *Id.* He stated that [REDACTED] took [REDACTED] to work at a tortilla factory operated by one of her business associates, and that [REDACTED] lasted three days due to the rigorous hours. *Id.* He explained that [REDACTED] then took him to work in the tortilla factory, and he worked for approximately three days, 24 hours per day, with "practically no rest in between." *Id.* at 2-3. The applicant indicated that the operator of the tortilla factory criticized his work and only paid money to [REDACTED] for the applicant's labor. *Id.* at 3. The applicant stated that [REDACTED] paid him \$35, and stated it was from the owner of the tortilla factory. *Id.*

The applicant stated that [REDACTED] "reminded [him] that because of her[,] Immigration had not yet deported [him], and that [he] should do as told or else Immigration would come and take [him] away." *Id.* The applicant explained that, after four or five weeks, [REDACTED] escaped through a back door, and [REDACTED] blamed the applicant for [REDACTED] departure. *Id.* The applicant indicated that he then had to do all of the work that he and [REDACTED] previously performed. *Id.*

The applicant stated that he asked [REDACTED] for money to buy a calling card to contact his family and she became "enraged." *Id.* He indicated that she later had her son accompany the applicant to a store where he bought a calling card for the applicant. *Id.*

The applicant explained that he felt humiliated by [REDACTED], and he did not want to ask her for money because he did not want her to call immigration authorities. *Id.* The applicant stated that he would work at the take out food business six days per week, and on Sundays he would perform household chores at [REDACTED] and Mr.

home. *Id.* The applicant stated that, after five or six months with [REDACTED] and [REDACTED], he left their house while working on a project outside. *Id.* He hid along a river bank where he met a man, [REDACTED], who offered to employ him. *Id.*

The applicant stated that he worked for [REDACTED] for one week, for which Pedro paid him \$200. *Id.* [REDACTED] introduced the applicant to another friend, [REDACTED], with whom the applicant traveled north by hitching rides on freight trains and walking. *Id.* The applicant eventually made his way to Florida, and then to New Jersey where he began working in a factory. *Id.* at 3-4.

On appeal, the applicant states that he did not discuss his experiences regarding [REDACTED] until he spoke to his current representative due to the fact that he was embarrassed. *Statement from Applicant on Appeal*, dated June 18, 2007. He explains that he does not know [REDACTED] last name or whereabouts, thus he cannot obtain a statement from him to support the present application. *Id.* at 2. He states that he does not know how to contact [REDACTED] thus he cannot have them attest to the facts of his case. *Id.*

The applicant submitted a statement from an individual who attests to the existence of the take out food business described by the applicant. *Statement from [REDACTED]* dated December 30, 2006. The applicant provided photographs of a take out food business titled "[REDACTED]'s Food Stand." *Photographs of Take Out Food Business and Surroundings*. The applicant further provided hand-drawn maps and illustrations of the take out food business and surrounding area.

The applicant submitted a statement from a licensed psychologist, [REDACTED], in which [REDACTED] assesses the applicant's mental health as observed in a two hour interview. *Statement from [REDACTED]* [REDACTED] dated March 22, 2007. [REDACTED] described the facts of the applicant's experiences, as he learned them from the applicant. *Id.* at 2-3. [REDACTED] indicated that the applicant suffered a head injury while he was staying in the take out food business, as the applicant slipped on a greasy cement floor and hit his head on a wall. *Id.* at 2. [REDACTED] stated that the applicant suffers from effects from this injury, including severe headaches, dizziness, and ear aches. *Id.* [REDACTED] expressed his opinion that the applicant suffers from Post Traumatic Stress Disorder, in part due to his experiences in Honduras and in part due to his encounter with [REDACTED] and [REDACTED]. *Id.* at 3. [REDACTED] stated his opinion that, should the applicant return to Honduras, his symptoms would greatly worsen and pose a grave danger to his mental health. *Id.* at 6.

The applicant submitted statements from his representative and an attorney from American Friends Service Committee in which they describe their efforts to assist the applicant, and they discuss the facts of the applicant's experiences as they learned them from the applicant. *Statements from Representative for the Applicant and [REDACTED]* dated November 9, 2006, October 5, 2006, and March 23, 2007.

Upon review, the applicant has not established that he has been the victim of a severe form of trafficking in persons, as contemplated by section 101(a)(15)(T) of the Act. The applicant explained that he encountered his alleged traffickers shortly after his arrival in the United States. As the applicant had just entered the United States illegally and he had no legal immigration status, he took refuge and employment with Mr. [REDACTED]. The applicant explained that [REDACTED] was verbally abusive to him, she did not pay him the amount they agreed upon, and she told him that she was the reason immigration authorities had not found him. The applicant stated that he was locked into a take out food business at night, and he wished to escape. However, the record presents unanswered questions that have a material bearing on whether the applicant was

in fact held against his will and subject to coercion and control that rose to the level of a severe form of trafficking in persons.

The applicant indicated that, at night time, he was locked into the food establishment where he worked, as Mr. [REDACTED] locked the doors and windows from the outside. However, the applicant has not explained whether the building where he stayed was equipped with locks that operated from the inside. The applicant provided photographs of the building that reflect that it is not modern construction. The building appears to be a small cinderblock construction with the windows and doors fitted with burglar bars. Photographs of nearby buildings show that they, too, are equipped with burglar bars on visible windows. The presence of burglar bars suggests that the building is located in an area where theft is a concern, and thus it is reasonable that the owner of a business in such an area would lock the premises during non-business hours. The applicant has not submitted sufficient explanation to establish that [REDACTED] locked the premises at night while he was sleeping inside in order to keep him inside against his will.

The applicant implied that he was not at liberty to leave [REDACTED]. However, the applicant has not explained where he was or what he was doing after his workday ended at 7:00pm. The AAO is unable to determine whether the applicant was permitted to depart the take out food business in the evenings, and if so, whether he returned on his own accord. The applicant further has not stated whether he sought to leave Mr. [REDACTED] prior to his departure. The applicant explained that, when he did leave, he walked away. He did not describe any efforts that [REDACTED] made to stop him. Accordingly, the record does not support that the applicant was being held against his will.

The applicant indicated that [REDACTED] used his immigration status as a means to control him. The applicant stated that she referenced his illegal status and the fact that immigration authorities could arrest him if he departed the take out food business. However, the record does not support that [REDACTED]'s reference to the applicant's immigration status constituted coercion that rose to the level of a severe form a trafficking in persons. The applicant entered the United States without inspection, and he had no legal immigration status. The applicant was, in fact, attempting to avoid detection by immigration authorities, and the record suggests that he would have been evading immigration authorities whether or not he was working for [REDACTED]. The take out food business offered the applicant an opportunity to remain in the United States undetected while earning some income. Shortly after the time of his entry, his success in remaining hidden from immigration authorities was tied to his presence at the take out food business. Thus, the record does not establish that [REDACTED] reference to the applicant's immigration status was inaccurate or merely a means to exercise control over him. The applicant has not provided sufficient explanation to clearly illustrate the context of [REDACTED] statements such that the AAO can determine that the applicant was subjected to coercion or control that constitutes a severe form of trafficking in persons.

The applicant explained that [REDACTED] "screamed" at him on several occasions, and he was paid significantly less than what he was initially offered. The facts that an employer does not make payment for labor as agreed, or does not treat an employee with respect, do not, by themselves, render a situation a severe form a trafficking in persons.

On appeal, the representative for the applicant contends that the center director failed to consider all of the evidence provided by the applicant. However, it must be noted that the record lacks adequate direct evidence. The applicant submitted statements from his representative and an attorney from American Friends Service Committee, yet these statement recount facts as related by the applicant, and the authors do not have direct

knowledge of the applicant's alleged trafficking experience. Thus, their recounting of the facts of the applicant's experience does not warrant significant weight. The applicant provided a statement, photographs, and hand-drawn maps to establish the existence of "[REDACTED] Food Stand." While this documentation shows that the take out food business referenced by the applicant exists, it does not support that [REDACTED] acted in the manner described by the applicant.

The applicant provided a psychological evaluation, yet [REDACTED] does not have direct knowledge of the applicant's experiences and his recounting of the facts of the applicant's case is not accorded significant weight. [REDACTED] notes that the applicant has suffered psychological difficulty due to his experiences in both Honduras and the United States. However, the applicant and [REDACTED] described traumatic experiences that the applicant endured in Honduras. From the report, the AAO cannot ascertain the degree of the applicant's emotional hardship that should be attributed to his encounters in the United States. [REDACTED] evaluation is given due consideration, but it does not establish that the applicant has suffered experiences in the United States that rise to the level of a severe form of trafficking in persons.

As observed by the center director, the statement from [REDACTED] mentions that the applicant sustained a head injury during his stay with [REDACTED]. However, the applicant has not described the occurrence, circumstances, or effects of this alleged injury, such as whether it in fact occurred while he was working for [REDACTED]. Nor has the applicant submitted medical documentation to support that he sustained a head injury or other physical health problems. The representative for the applicant generally asserts that, due to the applicant's status as a detainee, the applicant is unable to secure such documentation. However, the applicant has not described any efforts he made to obtain medical documentation for the present appeal, despite the center director's noting of its absence. Again, [REDACTED] does not have direct knowledge of the applicant's experiences and his recounting of the facts of the applicant's case is not accorded significant weight. Thus, the applicant has not submitted adequate documentation to show by a preponderance of the evidence that he sustained injury while engaged with [REDACTED].

In the absence of significant supporting documentation, the AAO must largely rely on the applicant's statements to determine whether he has shown by a preponderance of the evidence that he was subjected to a severe form of trafficking in persons. As discussed above, the applicant's statement does not present sufficient detail or explanation to show that he has been the victim of human trafficking.

The representative for the applicant contends that the center director violated the applicant's due process rights, in that the applicant was not afforded sufficient opportunity to explain the absence of evidence. However, in the center director's request for evidence of December 29, 2006, he requested specific items of evidence, and cited 8 C.F.R § 103.2(b)(2)(i), in pertinent part, as follows: "If secondary evidence . . . does not exist or cannot be obtained, the applicant or petitioner must demonstrate the unavailability of both the required document and relevant secondary evidence . . ." 8 C.F.R § 103.2(b)(2)(i). The center director considered the applicant's response to the request for evidence. The record clearly supports that the center director gave the applicant opportunity to account for the unavailability of evidence, and the applicant's representative's assertion to the contrary is not persuasive.

Although the representative for the applicant asserts that the applicant's rights to procedural due process were violated, the applicant has not shown that the center director violated any regulations, or that any such violation resulted in "substantial prejudice" to him. *See De Zavala v. Ashcroft*, 385 F.3d 879, 883 (5th Cir. 2004)(holding that an alien "must make an initial showing of substantial prejudice" to prevail on a due

process challenge). The applicant has fallen far short of meeting this standard. A review of the record and the adverse decision indicates that the director properly applied the statute and regulations to the applicant's case. As discussed above, the applicant has not met his burden of proof and the denial was the proper result under the relevant law and regulations.

Based on the foregoing, the applicant has not submitted sufficient evidence and explanation to establish by a preponderance of the evidence that he is the victim of a severe form of trafficking in persons, as required by section 101(a)(15)(T)(i)(I) of the Act.

As the applicant has failed to establish that he has been the victim of a severe form of trafficking in persons, he has failed to show that he is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking. Section 101(a)(15)(T)(i)(II) of the Act. It is further noted that the record shows that the applicant traveled to the United States in order to seek employment, and to avoid encounters with his creditor in Honduras. He did not come into contact with his alleged traffickers until he had already arrived in the United States, thus they did not bring him to the United States pursuant to their designs. The applicant explained that, once he left his alleged traffickers, he continued with his plans to find employment in the United States, ultimately working in a factory in New Jersey. He has not indicated that his experiences with [REDACTED] have caused him to remain in the country. Thus, the record does not support that the applicant is in the United States on account of his experiences with his alleged traffickers. The record reflects that he is in the United States pursuant to his original and continuing intention to come for work.

Further, the applicant has failed to establish that he would suffer extreme hardship involving unusual and severe harm upon return to Honduras, as required by section 101(a)(15)(T)(i)(IV) of the Act. The applicant indicated that he borrowed funds from individuals in Honduras, and he fears they will harm him due to outstanding debt. The applicant explained that his brother was killed, and he suspects the death was tied to the applicant's creditors. However, the applicant resided in Honduras for approximately four years after his alleged encounter with his creditors without incident. Further, the applicant has not provided any documentation to support his assertions regarding his risk of harm in Honduras, such as statements from his father, siblings, or other friends or family members. The applicant has not shown by a preponderance of the evidence that he is at risk of harm from his creditors on Honduras.

The applicant has not articulated any other factors that would result in extreme hardship involving unusual and severe harm should he return to Honduras, thus he 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 he satisfies the requirements for T status as provided in 101(a)(15)(T)(i) of the Act.

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.