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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

D12

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: APR 2 1 2009

EAC 07 236 50177

IN RE: Applicant: [redacted]

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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

for John F. Grissom
Acting Chief, Administrative Appeals Office

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

The applicant seeks nonimmigrant classification under section 101(a)(15)(T)(i) of the Immigration and Nationality Act ("the Act"), 8 U.S.C. § 1101(a)(15)(T)(i), as a victim of a severe form of trafficking in persons.

The director denied the application for failure to demonstrate that the applicant: (1) was a victim of a severe form of trafficking in persons; (2) was physically present in the United States on account of such trafficking; and (3) warranted a waiver of inadmissibility for prostitution at section 212(a)(2)(D) of the Act, 8 U.S.C. § 1182(a)(2)(D).

On appeal, the petitioner submits an additional statement.

I. Applicable Law

Section 101(a)(15)(T) of the Act provides, in pertinent part, that an applicant may be classified as a T-1 nonimmigrant if he or she is:

> (i) [S]ubject to section 214(o), an alien who the Secretary of Homeland Security, or in the case of subclause (III)(aa) the Secretary of Homeland Security and the Attorney General jointly; 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 Federal, State, or local investigation or prosecution of acts of trafficking or the investigation of crime where acts of trafficking are at least one central reason for the commission of that crime . . . and
> >
> > (IV) the alien would suffer extreme hardship involving unusual and severe harm upon removal [.]

Section 103 of the Trafficking Victims Protection Act of 2000 (TVPA), codified at 22 U.S.C. § 7102(8), defines the term "severe forms of trafficking in persons" as:

> 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.

This definition is incorporated into the regulation at 8 C.F.R. § 214.11(a), which also defines, in pertinent part, the following terms:

> *Coercion* means threats of serious harm to or physical restraint against any person; any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or the abuse or threatened abuse of the legal process.
>
> *Commercial sex act* means any sex act on account of which anything of value is given to or received by any person.
>
> *Debt bondage* means the 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.
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> ***
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> *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." (*United States v. Kozminski*, 487 U.S. 931, 952 (1988).
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> ***
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> *Peonage* means a status or condition of involuntary servitude based upon real or alleged indebtedness.
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> ***
>
> *Sex trafficking* means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

The regulation at 8 C.F.R. § 214.11 also provides specific evidentiary guidelines and states, in pertinent part:

> (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 [Secretary of Homeland Security]. 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 CFR 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. . . .

(g) *Physical presence on account of trafficking in persons.* The applicant must establish that he or she is physically present in the United States . . . on account of such trafficking, and that he or she is a victim of a severe form of trafficking in persons that forms the basis for the application. Specifically, the physical presence requirement reaches an alien who: is present because he or she is being subjected to a severe form of trafficking in persons; was recently liberated from a severe form of trafficking in persons; or was subject to severe forms of trafficking in persons in the past and whose continuing presence in the United States is directly related to the original trafficking in persons. . . .

* * *

(i) *Evidence of extreme hardship involving unusual and severe harm upon removal . . . .*

(1) *Standard.* Extreme hardship involving unusual and severe harm is a higher standard than that of extreme hardship as described in § 240.58 of this chapter. A finding of extreme hardship involving unusual and severe harm may not be based upon current or future economic detriment, or the lack of, or disruption to, social or economic opportunities. Factors that may be considered in evaluating whether removal would result in extreme hardship involving unusual and severe harm should take into account both traditional extreme hardship factors and those factors associated with having been a victim of a severe form of trafficking in persons. These factors include, but are not limited to, the following:

(i) The age and personal circumstances of the applicant;

(ii) Serious physical or mental illness of the applicant that necessitates medical or psychological attention not reasonably available in the foreign country;

(iii) The nature and extent of the physical and psychological consequences of severe forms of trafficking in persons;

(iv) The impact of the loss of access to the United States courts and the criminal justice system for purposes relating to the incident of severe forms of trafficking in persons or other crimes perpetrated against the applicant, including criminal and civil redress for acts of trafficking in persons, criminal prosecution, restitution, and protection;

(v) The reasonable expectation that the existence of laws, social practices, or customs in the foreign country to which the applicant would be returned would penalize the applicant severely for having been the victim of a severe form of trafficking in persons;

(vi) The likelihood of re-victimization and the need, ability or willingness of foreign authorities to protect the applicant;

(vii) The likelihood that the trafficker in persons or others acting on behalf of the trafficker in the foreign country would severely harm the applicant; and

(viii) The likelihood that the applicant's individual safety would be seriously threatened by the existence of civil unrest or armed conflict as demonstrated by the designation of Temporary Protected Status, under section 244 of the Act, or the granting of other relevant protections.

II. Facts and Procedural History

The record in this case provides the following pertinent facts and procedural history. The applicant is a native and citizen of China. On September 15, 2006, the applicant was paroled into the United States pursuant to the investigation and prosecution of *United States v. Fu Sheng Kuo, et. al.,* a sex trafficking case in American Samoa, which was prosecuted in the U.S. District Court of Hawaii (Case Number 06-594 BMK). The applicant was granted Significant Public Benefit Parole, but the applicant did not obtain continued presence under 28 C.F.R. § 1100.35.

The applicant filed the instant Form I-914 on August 6, 2007. On August 30, 2007, the director issued a Request for Evidence (RFE) of the Form I-192, Application for Advance Permission to Enter as a Nonimmigrant, and that the applicant warranted a waiver of inadmissibility. The applicant, through counsel, timely responded. On April 25, 2008, the director issued a second RFE for further evidence that the applicant was a victim of a severe form of trafficking in persons and merited a waiver of inadmissibility. The applicant timely responded with a second declaration. On September 2, 2008, the director denied the application for failure to establish that the applicant was a victim of a severe form of trafficking in persons, was physically present in the United States on account of such trafficking and merited a waiver of her inadmissibility for prostitution. The applicant timely appealed.

On appeal, the applicant reiterates her explanation of certain inconsistencies cited by the director. The applicant's assertions do not overcome the grounds for denial. In addition, beyond the decision of the director, the applicant has not demonstrated that she would suffer extreme hardship involving unusual and severe harm upon removal.

The AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); *see also, Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO's *de novo* authority has been long recognized by the federal courts. *See, e.g. Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

III. Victim of a Severe Form of Trafficking in Persons

The applicant did not submit primary evidence that she was a victim of a severe form of trafficking in persons, specifically, a Law Enforcement Agency (LEA) endorsement or evidence that she was granted continued presence under the regulation at 28 C.F.R. § 1100.35. The record shows that the applicant made good faith attempts to obtain an LEA endorsement pursuant to the regulation at 8 C.F.R. § 214.11(f)(3), but that the law enforcement authorities involved in the *Fu Sheng Kuo* trafficking case declined to complete an endorsement for her.

The applicant submitted affidavits, letters, printouts of electronic mail messages, copies of her Samoan immigration documents, the U.S. Immigration and Customs Enforcement (ICE) extension of her Significant Public Benefit Parole, and media articles regarding the *Fu Sheng Kuo* case. The relevant evidence shows that the applicant voluntarily went to American Samoa to work at a supermarket, but ended up working at a bar and restaurant, which she later learned was also a brothel. The record indicates that the applicant was pressured into prostitution, but later refused to engage in commercial sex acts and obtained other jobs. We concur with the director's determination that the relevant evidence does not demonstrate that the applicant was a victim of a severe form of trafficking in persons.

In her first affidavit, the applicant stated that in 2004 she paid her sister-in-law to obtain a visa and airline ticket to American Samoa where she intended to work at her sister-in-law's supermarket. Upon arrival, the applicant reported that her sister-in-law's boyfriend met her, told her that her sister-in-law did not own a supermarket and tried to get her to work as a bar hostess. The applicant reports that she refused and found a job at a store through an acquaintance. The applicant stated that in October 2004, she met [redacted] through another acquaintance. The applicant explained that [redacted] promised to obtain immigration documentation for her if she paid him $3,800 and worked for his company. The applicant stated that she obtained $2,000 from her husband in China and Mr. [redacted] agreed to deduct the remaining amount from her wages, which would be $500 per month. The applicant reported that she worked as a cook with [redacted] wife and later learned that other women worked as prostitutes for [redacted].

The applicant explained that [redacted] asked her what he should say to customers who wanted to have sex with her, but she never gave him a direct answer because she did not want to engage in prostitution, but was grateful to [redacted] for helping her. In December 2004, the applicant stated that [redacted] informed her that her debt would soon be paid and after January 1, 2005, she would be paid two-percent of the company's earnings and that the other women would pay her two dollars per customer. When her Samoan sponsor became ill, the applicant recounted that [redacted] found her a new sponsor, which put her in another debt of $2,500 to him.

In March 2005, the applicant reported that an employee at the bar told her a customer had been asking about her. One of the other women took her to her room where the customer was waiting. The applicant recounted that the woman told her she would be sent back to China if she refused and the applicant slept with the man for 16 nights, which paid off nearly half of her debt. In April, the applicant stated that she had a second customer who paid off her remaining debt and gave her an extra $300. After her debt was paid, the applicant remained working as a cook at the restaurant because, she stated that [redacted] would not let her change sponsors.

The applicant recounted that the new manager of the restaurant told her to have sex with other customers, but she refused. After speaking with the manager and [redacted], the applicant stated that she was given the choice to either stay and work as a prostitute or move out and pay a $200 monthly sponsor fee to [redacted]. The applicant reported that she, [redacted] and another woman opened a restaurant together, where she worked until [redacted] told her that she could not continue to do so because her immigration document stated that she was working for a different company.

The applicant stated that she then worked in a market, a restaurant and a drug store while paying the $200 monthly sponsor fee to until she could no longer afford it and moved back to Mr. establishment where she was told she would have to work at the bar if they needed help. In July 2006, the applicant recounted that asked her to co-manage the establishment, but she refused and then told everyone that they would work for themselves, could keep the money they earned, but had to pay him $125 weekly for rent and food. The applicant recounted that during this time she was still working at the drug store.

The applicant reported that on August 29, 2006, after two women escaped, the police came and arrested everyone. While in jail, the applicant recounted hearing manager threaten to harm one of the escapee's family in China. The applicant stated that she was interviewed by a Federal Bureau of Investigation (FBI) officer and gave him a written statement in which she did not include everything because she was afraid other people would find out that she had been a prostitute and would take away her work permit.

In her statement to the FBI, the applicant reported that she had sex with her first customer because she was "afraid of not getting an American Visa and being sent back to China." She also stated that in July 2006, spoke to her about "how to manage" his business and starting from September 1, she "decided to join managing" and "if there was customers staying overnight, [they] split with the gir[l]s 40/60."

In the second RFE, the director stated that the applicant's testimony indicated that the and their associates did not coerce the petitioner to engage in prostitution and that she helped manage and benefited from the prostitution business. In response, the applicant asserted that her FBI statement was misinterpreted and she unsuccessfully attempted to have it corrected. The applicant also asserted that she never agreed to manage the prostitution business and that charged the women a $2 fee per customer for the applicant's cooking and cleaning, which she did regardless of whether or not the women had customers. The applicant also asserted for the first time that had other employees frighten her to threaten and force her into prostitution and that the threatened to collect her debt from her family in China if she did not repay them.

The letters of Project Coordinator of the Salvation Army's Hawaii and American Samoa Anti-Trafficking Services , the applicant's case manager and interpreter at Child and Family Service in Hawaii; the electronic mail correspondence between counsel and FBI officers; and the media articles show that the applicant cooperated with law enforcement officials in the investigation and prosecution of the case. However, the electronic mail messages of the prosecutor of the case and one of the FBI officers involved also show that neither the U.S. Department of Justice (DOJ) nor the FBI was willing to complete a LEA endorsement for the applicant.

Sex Trafficking

The relevant evidence does not demonstrate that the applicant was a victim of sex trafficking. The record indicates that the applicant engaged in prostitution in order to repay her debt to more quickly. Although she stated that she did not want to engage in commercial sex acts, the applicant did not demonstrate that or his associates induced her to engage in prostitution through

force, fraud or coercion. The applicant stated that she voluntarily agreed to work for and refused to engage in prostitution on several occasions. In her first affidavit, the applicant indicated that she knew that she was being asked to engage in commercial sex and no one used physical force to make her do so. The applicant also did not indicate that she was threatened with physical restraint or abuse of legal process if she refused. Rather, the applicant stated that she had a key to the building, was free to come and go and later worked at a drugstore while she lived at establishment.

In her first affidavit, the applicant further stated that a co-worker told her she would be sent back to China if she did not have sex with her first customer, but she did not indicate that or any of his associates threatened her with serious harm to herself or anyone else. In response to the second RFE, the applicant asserted that often had people threaten and scare her with stories of what had happened to other women who refused to engage in prostitution. She also claimed that stopped paying her a salary and started to pay her a percentage of commissions as a strategy to force her into prostitution and that the had threatened at an unspecified time to collect her debt from her family in China. These later claims are inconsistent with the applicant's earlier description of her payment arrangement and her failure to mention any threats in her first affidavit. On appeal, the applicant reiterates that the commission was "the way of paying for [her] work" and she does not further explain her assertion that the change in her payment method was part of coercive efforts to make her engage in prostitution. Accordingly, the record does not establish that the applicant was a victim of sex trafficking whereby she was induced to engage in commercial sex acts through force, fraud or coercion, as the relevant terms are defined in the regulation at 8 C.F.R. § 214.11(a).

Involuntary Servitude and Peonage

The record also does not demonstrate that the applicant was subjected to involuntary servitude or peonage, as those terms are defined in the regulation at 8 C.F.R. § 214.11(a). The applicant explained in detail her voluntary agreements to work as a cook and cleaner for and his associates. Although the applicant stated that she was told not to speak to outsiders about business, she also reported that she had a key to the building and that her movement was not restricted. The applicant further stated that after she first left establishment, she worked at three other businesses and when she agreed to return to s business, she maintained her outside employment. The applicant made no claims of threatened injury to herself or her family until her declaration in response to the second RFE, which, as previously discussed, is inconsistent with her earlier statements and is of little probative value.

Debt Bondage and Slavery

The applicant has further failed to show that she was subjected to debt bondage or slavery. The applicant described in detail her debt and employment arrangements with and his associates. The applicant stated that she voluntarily went into debt twice in order to obtain employment authorization. She also recounted how she repaid both debts and then secured other employment. Although the applicant reported that she had to continue to pay a $200 monthly sponsor fee for her employment authorization, she explained that she then agreed to return to his establishment and instead pay $200 a month for rent and food, work in the bar if needed, but

could maintain her outside employment at a drug store. Accordingly, the applicant's testimony does not indicate that she remained in debt to or that the length and nature of her services were not limited or defined such as would constitute debt bondage as defined in the regulation at 8 C.F.R. § 214.11(a).

Slavery is not defined in the statute or regulations. However, slavery is commonly understood to mean the state of a person held in servitude as the chattel of another. *See e.g.* Merriam Webster Online, http://www.merriam-webster.com/dictionary/slavery, slaves (last accessed March 30, 2009). The relevant evidence in this case shows that the applicant voluntarily agreed to work for and his associates and received both monetary and in-kind remuneration for her services. Accordingly, the applicant has not demonstrated that she was subjected to slavery.

The applicant has not established that she was a victim of a severe form of trafficking in persons, as required by section 101(a)(15)(T)(i)(I).

IV. Presence in the United States on Account of Such Trafficking

The applicant has also failed to demonstrate that her continued presence in the United States is directly related to a severe form of trafficking in persons, as required by section 101(a)(15)(i)(II) of the Act. To establish that an alien is physically present in the United States on account of a severe form of trafficking in persons, the alien must demonstrate that he or she is presently being subjected to such trafficking, was recently liberated from such trafficking or was subject to such trafficking in the past and his or her continuing presence in the United States is directly related to the original trafficking. 8 C.F.R. § 214.11(g).

As discussed in the preceding section, the applicant has not demonstrated that she was a victim of a severe form of trafficking in persons. The record shows that the applicant was granted significant public benefit parole in order to assist with the investigation and prosecution of the trafficking case, in which two other individuals were identified as victims. The record indicates that applicant's parole has expired and that after the case was settled, the FBI officers involved in the case secured funds for the applicant to return to China, but she declined. Accordingly, the applicant has not established that she is present in the United States on account of the trafficking, as required by section 101(a)(15)(i)(II) of the Act.

V. Extreme Hardship Involving Unusual and Severe Harm Upon Removal

Beyond the director's decision, the applicant has also not established that she would suffer extreme hardship involving unusual and severe harm upon removal under the factors related to severe forms of trafficking in persons as listed in the regulation at 8 C.F.R. § 214.11(i)(1).

The applicant is currently 38 years old. In her second declaration, the applicant described herself as "a very independent woman" who can work "very hard to earn an honest living." The applicant stated that she was currently working as a bank teller and caregiver. In her first affidavit, the applicant also explained that she feared losing her family if they were separated much longer. The applicant's age and personal circumstances do not indicate that she would suffer extreme hardship if she returned to China. *See* 8 C.F.R. § 214.11(i)(1)(i).

The applicant asserted that she would have no counselors to help her with her depression and stress, but she did not explain in detail why no mental health treatment would be available to her in China. The applicant's therapist and psychiatrist confirmed that the applicant was being treated for depression and insomnia. They opined that the applicant "would likely suffer significant emotional trauma" if returned to China, but the only basis for that prediction was that "[s]ome of her fears and concerns about returning to China ha[d] been validated by [their] Chinese language interpreters." The applicant submitted no other relevant evidence and the factors at 8 C.F.R. § 214.11(i)(1)(ii), (iii) do not weigh in her favor.

There is no evidence that the applicant has sought criminal or civil redress or protection against Mr. and his associates through the U.S. judicial system. There is also no indication that the applicant would be severely penalized in China. In her first affidavit, the applicant expressed her fear that she would be prosecuted and imprisoned for prostitution in China, but she did not explain that fear in any probative detail and the record contains no evidence regarding the prosecution and punishment of prostitution in China. Accordingly, the factors at 8 C.F.R. § 214.11(i)(1)(v), (vi) also do not weigh in the applicant's favor.

The applicant also has not demonstrated that she would likely be re-victimized or severely harmed by her alleged traffickers in China. The applicant asserted that her husband received "strange phone calls during the night in China," which she feared were made by "the Fu Jian underground organization" because the had many Fujian business associates. In her second declaration, the applicant asserted that the s had threatened to collect her debt from her family in China, however, the applicant did not mention these threats in her first affidavit and she stated that she had twice repaid her debt to the . The record also contains no indication of any civil unrest or armed conflict in China that would seriously threaten the applicant's safety. The applicant did not specify the harm she feared might be inflicted upon her by unidentified associates of the and her brief statements are insufficient to demonstrate that the factors at 8 C.F.R. § 214.11(i)(1)(vi) to (viii) apply to her.

None of the regulatory factors weigh in the applicant's favor and she has not demonstrated that she would suffer extreme hardship involving unusual and severe harm upon removal, as required by section 101(a)(15)(T)(i)(IV) of the Act.

VI. Inadmissibility

In addition to meeting the statutory eligibility requirements, an alien must be otherwise admissible to qualify for T nonimmigrant status. 8 C.F.R. § 214.11(b). Section 212(d)(13)(A) of the Act, 8 U.S.C. § 1182(d)(13)(A), also prescribes that the Secretary of Homeland Security shall determine whether an applicant for T nonimmigrant classification is subject to any ground of inadmissibility. If the Secretary considers it to be in the national interest, the Secretary may waive the application of subsection (a)(1) and: "(ii) any other provision of subsection (a) (excluding paragraphs (3), (4), (10)(C), and (10[])(E)) if the activities rendering the alien inadmissible under the provision were caused by, or were incident to, the victimization described in section 101(a)(15)(T)(i)(I)." Section 212(d)(13)(B)(ii) of the Act, 8 U.S.C. § 1182(d)(13)(B)(ii); 8 C.F.R. § 212.16. This provision

supplements the Secretary's general waiver authority at section 212(d)(3) of the Act, 8 U.S.C. § 1182(d)(3).

As noted by the director, the applicant is inadmissible under section 212(a)(2)(D)(i) of the Act, 8 U.S.C. § 1182(a)(2)(D)(i), as an alien who engaged in prostitution within 10 years. The applicant stated that she engaged in prostitution with two men, but the applicant did not establish that she was a victim of a severe form of trafficking in persons and thus has not shown that her prostitution was caused by or incident to such victimization. The record does not support a waiver and favorable exercise of discretion under sections 212(d)(3) or 212(d)(13) of the Act. The applicant has consequently failed to establish her eligibility for T nonimmigrant classification pursuant to the regulation at 8 C.F.R. § 214.11(b).

VII. Conclusion

The applicant has not established that she was a victim of a severe form of trafficking in persons, that she is physically present in the United States on account of such trafficking and that she would suffer extreme hardship involving unusual and severe harm upon removal. The applicant is also inadmissible to the United States and does not warrant a waiver of the relevant inadmissibility ground. Consequently, her application must be denied.

The application will be denied for the reasons stated above, with each considered an independent and alternative basis for denial. As in all visa classification proceedings, the applicant bears the burden of proof to establish her eligibility for T nonimmigrant status. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.11(l)(2). The applicant has not met this burden.

ORDER: The appeal is dismissed.