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

U.S. Citizenship
and Immigration
Services



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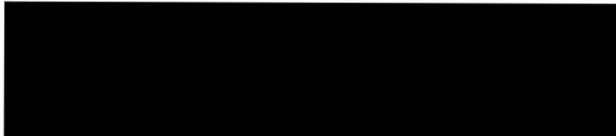
Office: VERMONT SERVICE CENTER

Date:

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:



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).

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 (U.S.) on account of such trafficking; (3) complied with any reasonable request for assistance in the investigation or prosecution of such trafficking; and (4) would suffer extreme hardship involving unusual and severe harm if she were removed from the United States.

On appeal, counsel submits a brief and additional evidence.

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.

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. . . .

(h) *Compliance with reasonable requests from a law enforcement agency for assistance in the investigation or prosecution.* . . .

(1) *Primary evidence of compliance with law enforcement requests.* An LEA endorsement describing the assistance provided by the applicant is not required evidence. However, if an LEA endorsement is provided . . . it will be considered primary evidence that the applicant has complied with any reasonable request in the investigation or prosecution of the severe form of trafficking in persons of which the applicant was a victim. . . .

(2) *Secondary evidence of compliance with law enforcement requests; Affidavits.* Credible secondary evidence and affidavits may be submitted to show the nonexistence or unavailability of the primary evidence and to otherwise establish the requirement that the applicant comply with any reasonable request for assistance in the investigation or prosecution of that severe form of trafficking in persons. The secondary evidence must include an original statement by the applicant that indicates the reason the LEA endorsement does not exist or is unavailable, and whether similar records documenting any assistance provided by the applicant are available. The statement or evidence must show that an LEA that has responsibility and authority for the detection, investigation, or prosecution of severe forms of trafficking in persons has information about such trafficking in persons, that the victim has complied with any reasonable request for assistance in the investigation or prosecution of such acts of trafficking, and, if the victim did not report the crime at the time, why the crime was not previously reported. 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. . . . The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Service. . . . An applicant who never has had contact with an LEA regarding the acts of severe forms of trafficking in persons will not be eligible for T-1 nonimmigrant status.

* * *

(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.

* * *

(l) *Review and decision on applications* – (1) *De novo review*. The Service shall conduct a de novo review of all evidence submitted and is not bound by its previous factual determinations as to any essential elements of the T nonimmigrant application. Evidence previously submitted for this and other immigration benefits or relief may be used by the Service in evaluating the eligibility of an applicant for T nonimmigrant status. However, the Service will not be bound by its previous factual determinations as to any essential elements of the T classification. The Service will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence.

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 South Korea. On March 1, 2002, the applicant entered the United States without inspection. On November 23, 2005, the applicant was convicted of unlawfully performing massage without a permit, in violation of a local ordinance in Santa Monica, California.¹ The applicant was placed on probation for 24 months and charged a fine and assessments.

On November 28, 2005, an anti-smuggling special agent of U.S. Immigration and Customs Enforcement (ICE) interviewed the applicant, who was then held “without bond, pending the investigation into possible slavery trafficking.”² On December 6, 2005, the applicant was served with a Notice to Appear for removal proceedings charging her as an alien in the United States without having been admitted or paroled. On March 13, 2007, the Los Angeles Immigration Court

¹ Los Angeles County, Superior Court of California, Number [REDACTED]

² Custody Processing Sheet dated December 5, 2005 in the applicant's alien file.

administratively closed the removal proceedings against the applicant due to the pending adjudication of this Form I-914 application.

The applicant filed her Form I-914 on April 21, 2006. On May 11, 2006, the director issued a Request for Evidence (RFE) 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; (3) complied with any reasonable request for assistance in the investigation or prosecution of such trafficking; and (4) would suffer extreme hardship involving unusual and severe harm if she were removed from the United States. In response, the applicant submitted an additional statement and documentation of her conviction, moral character and her removal proceedings. The director found the additional evidence insufficient to establish the applicant's eligibility and denied the application on the four grounds cited in the RFE on September 4, 2007.

Counsel timely filed a Form I-290B, Notice of Appeal. On Part 2 of the Form I-290B, counsel stated that the applicant was appealing the denial of her Form I-192, Application for Advance Permission to Enter as a Nonimmigrant. No appeal lies from the denial of a Form I-192 application. 8 C.F.R. § 212.16(b)(4). Nonetheless, in Part 3 of the Form I-290B and in her brief, counsel addressed the substance of her Form I-914 application and the director's denial of that application. Accordingly, we will treat the appeal as from the denial of the Form I-914 application.

On appeal, counsel reasserts the petitioner's eligibility and submits additional declarations and articles relating to the sex trafficking of women to and from Korea. Upon de novo review, we find that the record demonstrates that the applicant was a victim of a severe form of trafficking persons, is physically present in the United States on account of such trafficking and complied with at least one reasonable request for assistance in the investigation of such trafficking. However, counsel's claims and the evidence submitted on appeal do not establish that the applicant would suffer extreme hardship involving unusual and severe harm if she were removed from the United States.

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. However, 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). The record also contains the following relevant, secondary evidence:

- The applicant's April 20 and August 2, 2006 declarations submitted below and her October 30, 2007 declaration submitted on appeal;
- Form I-265, Notice to Appear, Bond, and Custody Processing Sheet dated December 5, 2005;
- Court docket sheet of the applicant's criminal case and her California criminal history transcript;
- Psychological evaluation of the applicant by [REDACTED] submitted on appeal; and
- Articles regarding the sex trafficking of South Korean women submitted on appeal.

In her first declaration, the applicant stated that she grew up in a poor family in South Korea. The applicant explained that she attended cosmetology school and worked as an esthetician, but she could not make enough money to support her ailing mother and pay her mother's medical bills. The applicant reported that for ten years, she worked two or three jobs at a time to support her mother until a friend introduced her to a man at an employment agency. The applicant stated that [REDACTED] told her she could work at an elite beauty salon in Los Angeles and make \$20,000 a month. He showed the applicant the salon's brochure, which listed prices for treatments at five to ten times higher than what was charged in Korea. The applicant reported that [REDACTED] also told her she would receive substantial tips from the customers. In February 2002, the applicant stated that she signed a promissory note to [REDACTED] for \$12,000 for airfare and his fee, which he told the applicant would be deducted from her wages in the United States. The applicant recounted that she flew to Canada and joined a group of other people who walked for eight hours until they arrived in Washington State. After they arrived, the applicant stated that she argued with the two men who led the group when they took her passport, plane ticket and money, but she relented when they started to beat another person who resisted.

The applicant reported that she was taken to Los Angeles and told she was going to start work the next day at a massage parlor as a prostitute. The applicant explained that she was shocked and grabbed her bags to leave, but one of the men threatened that if she left, he would sell her to a whorehouse in Mexico and that she already owed him \$10,000 and until she paid that debt as well as room and board, she had to obey him. The applicant reported that the men told her if she was sold to a Mexican whorehouse, she would be raped, sodomized and killed when she became useless. According to the applicant, the men also threatened that no one would help her because she was in the United States illegally and if she went to the police they would imprison her. The applicant stated one man also told her that if she tried to escape, he would kill her. The applicant stated that her debt kept increasing because of interest, room and board and fines when she woke up late, incurred extra expenses or did not use all the time paid for by a customer. The applicant recounted that when the police came to the safe house, she was exhausted because every day she had to have sex with up to ten people so when the police questioned her, she told them everything.

In her second declaration, the applicant provided further details. She explained that she never would have agreed to come to the United States if she had known that she was going to have to work as a prostitute and that she only did so because she feared harm and death. The applicant recounted that she was first taken to a massage parlor in Inglewood where her first customer was twice her size and started to laugh at her and call her names she did not understand before he grabbed, hit and raped her. The applicant recounted being paralyzed until the manager came in, yelled, slapped her and told her to clean up for the next customer. The applicant reported that she ran into the bathroom in shock and when she refused to open the door for fear of being raped again, the manager broke the door and beat her until she was unconscious. The applicant stated that she still bore a scar on her face from that beating.

The applicant recounted that she was relocated to different parlors numerous times. At a parlor called Mias in the San Fernando Valley, the applicant explained that she realized she could not escape when she saw a girl beaten after a customer complained about her and saw other girls beaten when they tried to escape. The applicant stated that the traffickers talked to her as if she were an animal and she was regularly slapped or hit in the head and beaten if a customer complained. The

applicant recounted one occasion when a customer attacked her, laughed when she began to cry and then cursed and hit her while he raped her. Afterwards, the applicant stated that the manager beat her because the customer was dissatisfied.

The applicant explained that she thought of trying to escape, but was never alone. The applicant recounted that she suffered from insomnia and tried to commit suicide, but was not successful and was later beaten because she had tried to kill herself. The applicant expressed her fear of sleeping because of her nightmares and that she stated that she began hearing voices during the day yelling and cursing her. In December 2005, the applicant reported that she was arrested by "the INS" and escaped with the help of a friend, but she still feared being caught by her traffickers.

The applicant's criminal records and the Form I-265 are consistent with the applicant's testimony. The applicant's criminal history transcript shows that she was arrested by the Santa Monica, California Police Department on October 8, 2005. The court docket shows that the applicant was charged with prostitution, unlawfully performing massage and unlawfully performing massage without a permit. The first two charges were dismissed and the applicant was convicted of the latter charge. The Form I-265 states that the applicant was interviewed by ICE agents when the Los Angeles Police Department requested assistance with a potential incident of "alien smuggling/human trafficking." The Form I-265 cites the applicant as stating that she was smuggled into the United States from Canada three years ago and confirms that the applicant was arrested by the Santa Monica Police Department on October 8, 2005 and convicted of unlawful massage without a permit. The Form I-265 further notes, "The SAC/LA Slavery/Human Rights group is holding [the applicant] without bond, pending the investigation into possible slavery trafficking."

In his psychological evaluation of the applicant, [REDACTED] diagnoses the applicant with posttraumatic stress disorder, major depressive disorder that is severe with psychotic features and recommends that the applicant be treated with psychotherapy and antidepressant, anti-panic and anti-psychotic medication. [REDACTED] description of the applicant's experiences is largely consistent with her testimony.

The director determined that the applicant was not a victim of a severe form of trafficking in persons because the applicant "submitted no evidence to corroborate [her] story." The director stated that although the applicant recounted speaking with the police and immigration authorities, she submitted no documentation of any such contact. The director's statements indicate that he did not consider the evidence of the applicant's interview with ICE agents following her criminal arrest. The relevant evidence demonstrates that the applicant was induced to engage in commercial sex acts through fraud and coercion. Accordingly, the applicant has established that she was a victim of a severe form of trafficking in persons, as required by section 101(a)(15)(T)(i)(I) of the Act, and the director's determination to the contrary is hereby withdrawn.

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

The applicant has also established that her continued presence in the United States is directly related to the original trafficking, as required by section 101(a)(15)(i)(II) of the Act and explicated in the regulation at 8 C.F.R. § 214.11(g). To establish that an alien is physically present in the U.S. 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). In most cases, aliens who are voluntarily smuggled into the United States will not be considered victims of a severe form of trafficking in persons. *New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for "T" Nonimmigrant Status, Interim Rule*, 67 Fed. Reg. 4784, 4787 (Jan. 31, 2002). However, aliens who are voluntarily smuggled into the United States may become victims of a severe form of trafficking in persons if, for example, the smuggler induces the alien to commit commercial sex acts after arrival in the United States through force, fraud or coercion. *See id.* (noting that "[f]ederal law prohibits forced labor regardless of the victim's initial consent to work.").

In this case, the record shows that although the applicant came to the United States voluntarily to work, she was induced to commit commercial sex acts after her arrival through fraud and coercion. In her first declaration, the applicant stated that she agreed to come to the United States to work as an esthetician at a beauty salon. After she was told she would be working as a prostitute, the applicant recounted that she prepared to leave, but her traffickers told her that they could kill her or sell her to a whorehouse in Mexico. In her second declaration, the applicant further described the physical, verbal and sexual abuse to which her traffickers and their associates subjected her. The applicant also explained that she thought of trying to escape, but she was never left alone and that the only means of escape would have been to pay off her debt, which steadily increased until it was larger than when she started.

The relevant evidence demonstrates that the applicant was induced to commit commercial sex acts after her arrival in the United States through her traffickers' fraud and coercion. The record further establishes that the applicant remained in the United States subject to debt bondage through the coercion of her traffickers and their associates. Her continuing presence in the United States is directly related to the original trafficking. Accordingly, the applicant has established that she is physically present in the United States on account of a severe form of trafficking in persons, as required by section, as required by section 101(a)(15)(i)(II) of the Act.

V. Compliance with Request for Assistance in Trafficking Investigation

The applicant has also demonstrated that she complied with at least one reasonable request for assistance in the federal investigation of acts of trafficking. Although the applicant did not submit an LEA endorsement, the record shows that she made good faith attempts to obtain an LEA endorsement and that she was interviewed at least once by ICE agents investigating the acts of her traffickers or their associates.

In her second declaration, the applicant stated that after she was taken into INS custody in December 2005, she complied with all requests and provided information during two or three interviews, but she could not remember the names of the officers or the interpreter. The applicant also reported that she called the U.S. Department of Justice (DOJ) trafficking hotline on March 2, 2006 to report her experiences, but she had not received any reply. On appeal, the applicant adds that after her interviews with INS, the officer did not give her a business card and she did not receive a copy of her statement. She again notes that no one from the DOJ trafficking line ever returned her call. On appeal, counsel further states that he contacted the DOJ trafficking line on October 31, 2007 and

spoke to a woman who told him she would contact him after she looked into his request to follow up on the applicant's 2006 call. Counsel also reports that he filed a request for a copy of the applicant's alien file in order to find out who interviewed the applicant in 2005 and obtain an LEA certification or other documentation of her cooperation with investigative authorities.

As previously noted, the Form I-265 states that the applicant was interviewed by ICE agents when the Los Angeles Police Department requested assistance with a potential incident of "alien smuggling/human trafficking." The narrative of the applicant's statements on the Form I-265 is consistent with her testimony in this case. The Form I-265 further notes, "The SAC/LA Slavery/Human Rights group is holding [the applicant] without bond, pending the investigation into possible slavery trafficking." The director's decision does not indicate that he considered this evidence. The relevant evidence demonstrates that the applicant complied with at least one reasonable request for assistance in the investigation of the trafficking to which she was subjected. The petitioner has met the statutory requirement at section 101(a)(15)(T)(i)(III) of the Act and the director's decision to the contrary is hereby withdrawn.

VI. Extreme Hardship Involving Unusual and Severe Harm Upon Removal

The applicant has not established that she would suffer extreme hardship involving unusual and severe harm upon removal. The record contains the following evidence relevant to this issue:

- The applicant's April 20 and August 2, 2006 declarations submitted below and her October 30, 2007 declaration submitted on appeal;
- Form I-265, Notice to Appear, Bond, and Custody Processing Sheet dated December 5, 2005;
- Psychological Evaluation of the applicant by [REDACTED]; and
- Articles regarding sex trafficking of South Korean women submitted on appeal.

In her first declaration, the applicant merely asserted that she would be an "outcast in Korea because of what [she had] become in the U[.].S." Counsel submitted the cover and end pages of a 2001 report entitled "Sex Trafficking of Women in the United States: International and Domestic Trends," but counsel did not include any relevant, substantive contents of this report or any other evidence to support the applicant's assertion that she would be an outcast in Korea. In her second declaration, the applicant discussed three reasons why she could not return to Korea. First, the applicant asserted that she was "too mentally unstable" and had a support network of friends in the United States that she would lack in Korea. Second, the applicant stated that she feared her traffickers would find her and the Korean authorities would not protect her from being re-victimized. Third, the applicant explained that she would be a social outcast in Korea where she would be viewed "only as a prostitute and not a victim." Again, counsel submitted no evidence to support the applicant's assertions in response to the RFE.

On appeal, the applicant reiterates that she continues to suffer from the psychological effects of her trafficking and states that no help would be available to her in Korea. The applicant also claims that her traffickers or the employment agency would find her in Korea where she is afraid she would be killed or kidnapped because she has not paid off her debts. Finally, the applicant reasserts that she would be socially ostracized in Korea because her traffickers have already told her family and

everyone in her neighborhood about her prostitution in the United States. The applicant does not, however, explain the basis of her fears in detail. She does not state, for example, how she knows that the traffickers have spoken to her family and neighbors in Korea.

On appeal, counsel submits several articles regarding the sex trafficking of women to and from Korea. Three of these articles are printed in Korean and were submitted with English translations that were not certified as required by the regulation at 8 C.F.R. § 103.2(b)(3). Even if the translations had been certified, however, the articles are of little relevance to the applicant's case because two articles discuss prostitution in Korea and the other article briefly recounts the story of a woman whose husband abandoned her after he found out about her former prostitution. Five of the remaining articles primarily discuss the sex trafficking of foreign women and prostitution in Korea. The remaining articles discuss the sex trafficking of Korean women into the United States, including San Francisco and Los Angeles. An October 6, 2006 article from the *San Francisco Chronicle* cites a counselor from a shelter for sex trafficking victims in South Korea as reporting that some women who testified against their traffickers had disappeared, had their homes ransacked, their families harmed or threatened, or were burned with acid. Other articles confirm that victims of trafficking are often prosecuted in Korea for prostitution and that traditional Korean society view prostitutes as criminals, rather than victims.

The articles and other relevant evidence do not establish, however, that the applicant would suffer extreme hardship involving unusual and severe harm 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). First, the applicant's age and personal circumstances, as described in the record, do not indicate that she would be subject to extreme hardship upon removal per the regulation at 8 C.F.R. § 214.11(i)(1)(i). The applicant indicates that she was over 30 years old when she came to the United States. In her first declaration, the applicant stated that she came from a poor family and her mother was ill. In her second declaration, she conveyed that she would not have anyone to turn to for emotional support or comfort in Korea, that no one would help her and she would have nothing to do. On appeal, the applicant states that she has been shamed by her traffickers who told her family and neighbors of her prostitution in the United States. However, the petitioner does not describe her family and personal circumstances in Korea in any probative detail. In his psychological evaluation of the applicant, ■■■ stated that the applicant's traffickers went to her home in Korea and harassed her mother and one of her traffickers in the United States continually called her home in Korea and threatened her family. The applicant herself, however, does not mention these incidents.

While the applicant has clearly suffered enduring harm, the relevant evidence does not show that the applicant requires mental health or other medical treatment that is not reasonably available in Korea or that the nature and extent of the psychological consequences of her trafficking indicate that she would suffer the requisite extreme hardship upon removal. See 8 C.F.R. § 214.11(i)(1)(ii) and (iii). ■■■ diagnoses the applicant with posttraumatic stress disorder and major depressive disorder with psychotic features. ■■■ evaluation was conducted nearly two years after the applicant escaped her traffickers and while ■■■ opines that the applicant's "depression would probably worsen if she goes back to Korea and faces her family and friends by losing face," he does not discuss this issue in detail nor indicate that the applicant would have no access to necessary medication and psychological treatment in Korea. In addition, two of the articles submitted on

appeal discusses the work of nongovernmental organizations in South Korea to assist victims of sex trafficking.

While the record shows that the applicant was interviewed by ICE in connection with an investigation of possible trafficking, the record also indicates that the applicant was not involved in any further investigation or prosecution. The applicant has also not indicated that she seeks civil redress, restitution or protection through the U.S. legal and criminal justice systems (apart from the instant application). Accordingly, the corresponding factor at 8 C.F.R. § 214.11(i)(1)(iv) does not weigh in the applicant's favor.

Three of the articles submitted on appeal indicate that victims of sex trafficking who escape or testify against their traffickers are socially ostracized and that they and their families may be harmed by traffickers. Two articles report one case of a Korean woman who was trafficked and later prosecuted because of her outstanding debt and situations where foreign women were deported after having been trafficked into Korea to work in the commercial sex industry. However, one article discusses the case of a Korean minor whose sex traffickers were prosecuted after she escaped and reported the crime to the police. Another article critically discusses the commercial sex industry in Korea and the complex societal, labor and contractual issues involved. While the articles show that victims of sex trafficking face social ostracism in Korea, they also indicate that the treatment of such victims in Korea is more nuanced than counsel asserts on appeal. The articles alone do not establish that the laws, current social practices or customs in Korea could reasonably be expected to severely penalize victims of sex trafficking such as the applicant. The applicant failed to provide detailed, probative testimony explaining why she, specifically, would be severely penalized upon her return to Korea. Consequently, the corresponding factor at 8 C.F.R. § 214.11(i)(1)(v) also does not weigh in the applicant's favor.

While the record indicates that some victims of sex trafficking are revictimized and harmed in Korea, the applicant has not demonstrated that the relevant factors at 8 C.F.R. § 214.11(i)(1)(vi) and (vii) weigh in her favor. On appeal, the applicant briefly states that her traffickers have told her family and neighbors of her prostitution in the United States and that she will be socially ostracized as a result. The applicant does not, however, indicate that the traffickers have threatened or harmed her family or have told her family that they will severely harm her. Although [REDACTED] stated that the applicant's traffickers had harassed her mother and threatened her family, the applicant herself does not discuss such actions. The articles submitted on appeal provide equivocal information on the willingness of Korean authorities to protect victims of trafficking. Finally, South Korea is not designated for Temporary Protected Status and the record contains no evidence of civil unrest or armed conflict in Korea that would seriously threaten the applicant's individual safety. Accordingly, the factor at 8 C.F.R. § 214.11(i)(1)(viii) does not apply to the applicant's situation.

The applicant has failed to establish 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 and under the standard explicated in the regulation at 8 C.F.R. § 214.11(i).

VII. Conclusion

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).

The applicant has 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 complied with at least one reasonable request for assistance in the investigation of the trafficking. However, the applicant 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. Consequently, her application must be denied.

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(1)(2). The applicant has not met this burden.

ORDER: The appeal is dismissed.