

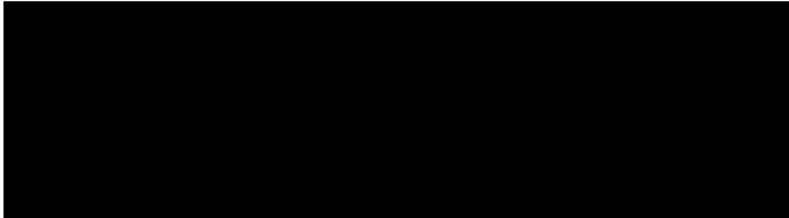
U.S. Department of Homeland Security
Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



D12

DATE: **APR 20 2012**

Office: VERMONT SERVICE CENTER

FILE: 

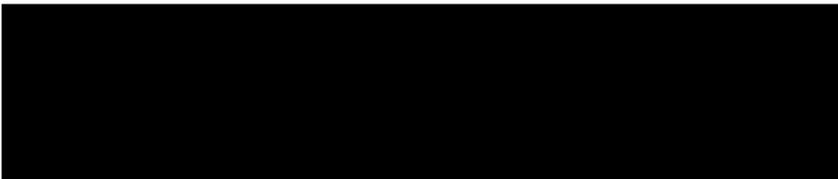
IN RE:

Applicant: 

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).

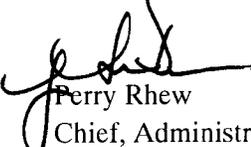
ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,


Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, (“the director”) denied the application for T nonimmigrant status and affirmed the denial upon granting a subsequent motion to reopen. The matter is now before the Administrative Appeals Office (AAO) on appeal. Because the applicant has established his statutory eligibility for T nonimmigrant classification, but remains inadmissible, the director’s decision will be withdrawn and the matter remanded to the director for further action.

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 establish that the applicant was a victim of a severe form of trafficking in persons and was present in the United States on account of such trafficking. On appeal, counsel submits briefs and additional evidence.¹

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) subject 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, in consultation with the Attorney General, 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 . . . on account of such trafficking, including physical presence on account of the alien having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or a perpetrator of 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(8) of the Trafficking Victims Protection Act of 2000 (TVPA), codified at 22 U.S.C. § 7102(8) and incorporated into the regulation at 8 C.F.R. § 214.11(a), defines the term “severe forms of trafficking in persons” as, in pertinent part:

¹ On appeal, counsel requests the opportunity for oral argument to “assist the Administrative Appeals Office in its review of the complex facts and supplemental evidence.” The record contains numerous supporting documents and multiple legal memoranda from counsel and other legal experts. Because the evidence and legal issues are fully represented in the record, we find no need for oral argument on appeal and counsel’s request is denied pursuant to the regulation at 8 C.F.R. § 103.3(b)(2).

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 regulation at 8 C.F.R. § 214.11(a) defines the term “involuntary servitude” as:

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)).

This definition reflects the federal crime of forced labor enacted by section 103(5) of the TVPA and codified at 18 U.S.C. § 1589. See *Preamble to T Nonimmigrant Interim Rule*, 67 Fed. Reg. 4784, 4786 (Jan. 31, 2002). The forced labor statute at 18 U.S.C. § 1589(c) provides the following, pertinent definitions:

(1) The term “abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or continue performing labor or services in order to avoid incurring that harm.

The regulation at 8 C.F.R. § 214.11(g) prescribes the evidentiary burden to establish the physical presence requirement for T nonimmigrant classification at section 101(a)(15)(T)(i)(II) of the Act and states, in pertinent part:

[T]he 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 at some point in the past and whose continuing presence in the United States is directly related to the original trafficking in persons.

* * *

(2) *Opportunity to depart.* If the alien has escaped the traffickers before law enforcement became involved in the matter, he or she must show that he or she did not have a clear chance to leave the United States in the interim. The Service will consider whether an applicant had a clear chance to leave in light of the individual applicant’s circumstances. Information relevant to this

determination may include, but is not limited to, circumstances attributable to the trafficking in persons situation, such as trauma, injury, lack of resources, or travel documents that have been seized by the traffickers. This determination may reach both those who entered the United States lawfully and those who entered without being admitted or paroled. The Service will consider all evidence presented to determine the physical presence requirement, including asking the alien to answer questions on Form I-914, about when he or she escaped from the trafficker, what activities he or she has undertaken since that time, including the steps he or she may have taken to deal with the consequences of having been trafficked, and the applicant's ability to leave the United States.

The regulation at 8 C.F.R. § 214.11(I) prescribes, in pertinent part, the standard of review and the applicant's burden of proof in these proceedings:

(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 status application. . . . The Service will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence.

(2) *Burden of proof.* At all stages of the processing of an application for any benefits under T nonimmigrant status, the burden shall be on the applicant to present to the Service evidence that fully establishes eligibility for the desired benefit.

Pertinent Facts and Procedural History

The applicant is a 49 year-old citizen of India who stated that he was solely responsible for the financial support of his wife and their young son, as well as his brother, sister-in-law and their two children. In his December 16, 2008 and May 11, 2009 statements submitted below, the applicant provided the following account of his journey to the United States. In November 2006 while he was working as a structural fitter in Dubai, the applicant went to the office of [REDACTED] to inquire about the opportunity to work and gain permanent residency in the United States. A [REDACTED] employee told the applicant that it would cost approximately \$14,500 (U.S. dollars) and he would start with an H2B visa, which would be extended once at which time he could apply for his "green card." The applicant then attended an interview and passed a test given by an employee of [REDACTED], who told the applicant that he would work for the company as a structural fitter in Texas. After the interview, another [REDACTED] employee told the applicant that he would have to pay his fee in three installments within a month.

The applicant recounted that because he had no savings and was already in debt, he amassed the funds through the help of family and friends and by obtaining a loan from money lenders at a 24% annual interest rate and getting a smaller loan from a cooperative bank by pledging his wife's jewelry. Because the jewelry was his wife's dowry, the applicant explained that it was "profoundly shameful" to his family to lose it. In mid-November 2006, the applicant paid approximately \$4,800 to [REDACTED] and two lawyers working for [REDACTED]

In January 2007, [REDACTED] told the applicant to return to India for his visa interview at the U.S. consulate. The applicant took emergency leave from his job in Dubai, but later lost his job when his

interview was delayed. Before the applicant's visa interview in early February, a [REDACTED] representative told him not to disclose to the consular officer that he had paid any money to [REDACTED] for the visa and to say that he planned to return to India upon the expiration of the H2B visa. After his interview, the [REDACTED] representative retrieved and retained the applicant's passport. During February and March 2007, the applicant waited unemployed at his home in Kerala because the [REDACTED] representative told him that there were problems at [REDACTED] causing a delay. In the last week of March, the [REDACTED] representative told the applicant to go to the [REDACTED] office in Bombay and make his final payment. The applicant went to the [REDACTED] office in Bombay and made his final payment, but when he requested a receipt, [REDACTED] director refused and instead made him sign a form stating that he had not paid any money to [REDACTED]. [REDACTED] director gave the applicant his passport and airline ticket and told him that [REDACTED] representatives would meet him at the airport in New Orleans.

On April 3, 2007, the applicant flew from Bombay to the United States with four other Indian workers. No one from [REDACTED] met them at the airport in New Orleans and the applicant and his companions contacted an acquaintance who helped them find a motel. The applicant and the other workers eventually went to the [REDACTED] labor camp in Mississippi where a [REDACTED] employee told them there were no jobs available, but that they could try to get a job with the [REDACTED] labor camp in Texas. The applicant explained that he did not go to Texas because he heard that [REDACTED] had tried to deport other Indian workers at the Texas camp and he could not bear to think of returning to his debts, destitution and shame in India.

In his December 19, 2011 statement submitted on appeal, the applicant recounted that after his arrival in the United States, he initially stayed at a motel in Mississippi where he lived off of the free bread and coffee because he had no money for food. The applicant contacted a friend in Louisiana who suggested that the applicant go to South Carolina where he could stay with some other Indian workers and cook for them. The applicant stayed with the workers in South Carolina for about two months, during which time he slept in the kitchen and went without food when the workers had guests. In South Carolina the applicant met other workers who had escaped from [REDACTED] and they told him about a charity in New Orleans which was trying to help people in their situation. In June or July 2007, the applicant went to Florida with some other Indian workers. He then went to Louisiana and stayed with other workers who had escaped from [REDACTED] for four months. In November 2007, the applicant and the other workers went to Texas and in March 2008, the applicant went to North Dakota.

The applicant did not discuss his activities in Florida, Louisiana or North Dakota, however, the record shows that he received an extension of his H2B visa to work for [REDACTED] in Louisiana from October 25, 2007 to February 1, 2008. The applicant was also detained by U.S. Immigration and Customs Enforcement (ICE) on October 28, 2008 during a workplace enforcement investigation at [REDACTED] Incorporated in North Dakota where the applicant was employed without authorization. On December 17, 2008, the applicant was convicted of possession of a counterfeit social security card in violation of 18 U.S.C. § 1546(a) and was sentenced to time he had already served in imprisonment.

The applicant recounted that he was afraid to contact the police after his arrival in the United States because he thought they would contact [REDACTED] and deport him to India. The applicant explained that

he feared the police because when he was working in Dubai, people from other countries who went to Dubai for work and contacted the police when they were denied jobs upon their arrival were deported or taken to jail where they were subjected to discrimination, harassment and humiliation by the guards. The applicant reported that one of his neighbors in India was jailed in Dubai for three months and abused so badly that he could barely walk upon his release. Despite his fear of police brutality, the applicant explained that he felt safe and trusted the New Orleans charity because individuals at the organization spoke his native language and were assisting other workers who had left [REDACTED]. The applicant stated that it was only through the charity's help that he became aware of the laws in the United States and found an attorney to help him communicate with governmental agencies and report himself as a trafficking victim in approximately March 2008.

The applicant filed the instant Form I-914 on November 24, 2008. The director denied the application based on his determination that the applicant was not a victim of a severe form of trafficking in persons and was not in the United States on account of such trafficking. The director affirmed his decision upon granting the applicant's motion to reconsider and counsel timely appealed. The AAO subsequently issued a Request for Evidence (RFE) that the applicant did not have a clear chance to leave the United States after he escaped his traffickers and before law enforcement became involved in the matter. Counsel timely responded to the RFE with a brief and additional evidence.

The AAO reviews these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The applicant has overcome the director's grounds for denial on appeal and the director's decision will be withdrawn for the following reasons.

Victim of a Severe Form of Trafficking in Persons

The director determined that the applicant was not a victim of a severe form of trafficking in persons because although he was subjected to fraudulent visa practices by [REDACTED] and its associates, the purpose of their recruitment was not to subject the applicant to involuntary servitude, peonage, debt bondage or slavery, but only for their own personal, monetary gain. The director determined the applicant had not established that [REDACTED] ever intended to recruit workers for the purpose of subjecting them to involuntary servitude or forced labor.

The director's determination shall be withdrawn. The evidence submitted below and on appeal establishes that at the time of the applicant's recruitment, [REDACTED] was acting as [REDACTED] agent. Under basic principles of agency law, an employer may be held accountable for the actions of its agent. See generally, 27 Am. Jur. 2d *Employment Relationship* § 373 (2011) (discussing an employer's vicarious liability for its agent's torts under the doctrine of respondeat superior). The record contains a copy of a notarized document dated August 3, 2006, in which [REDACTED] formally granted power of attorney to [REDACTED] to act as its agent in India. A June 19, 2006 letter from [REDACTED] Senior Vice President and General Manager to [REDACTED] also confirmed that [REDACTED] had formally appointed [REDACTED] as its "representative in India to facilitate the recruitment of skilled workers to the United States of America for employment under the temporary and permanent resident program." Although the power of attorney expired on November 6, 2006, the record also contains electronic mail messages dated December 1, 2006 in which [REDACTED] invited [REDACTED] representatives to visit the company in the United States and also stated that it was in the process of

drafting an agreement for [REDACTED] "continued services in processing etc. the balance of the 590 personnel that [REDACTED] has approved under the H2B program." The record thus clearly shows that [REDACTED] was acting as [REDACTED] agent at the time of its fraudulent recruitment of the applicant.

The evidence also demonstrates that [REDACTED] was aware of the exorbitant recruitment fees the Indian workers had paid. In an electronic mail message dated November 17, 2006, a [REDACTED] official stated that he had spoken to workers at the labor camp who paid \$12,000 and that another worker called him from India asking if he could go to [REDACTED] directly without paying the \$15,000 recruitment fee, but the [REDACTED] official told him he could not. In a deposition given in connection with civil litigation against [REDACTED], the same official stated that even after learning of the exorbitant recruitment fees, [REDACTED] continued to work with [REDACTED] to bring in more Indian workers.

While the director acknowledged that [REDACTED] later harbored other Indian workers and subjected them to forced labor, he concluded that [REDACTED] did not intend to do so when they began the recruitment process with [REDACTED] in India. The director failed to acknowledge, however, that at the time of this applicant's recruitment, [REDACTED] had already harbored other workers and subjected them to involuntary servitude. Photographs, excerpts from depositions of [REDACTED] officials and media reports show that [REDACTED] began employing Indian workers in H2B status in October 2006 and housing them in labor camps, surrounded by locked gates controlled by security guards.

Electronic mail correspondence among [REDACTED] officials and between a [REDACTED] official and U.S. Customs and Border Protection (CBP) demonstrates that [REDACTED] discussed and planned the deportation of certain Indian workers beginning in November 2006 and continuing through September 2007. Media reports, excerpts from depositions of [REDACTED] officials and a report from the Pascagoula, Mississippi Police Department demonstrate that, in the case of at least one Indian worker in November 2006, Signal's "goal [was] to deport this worker as quickly as possible." This evidence also documents that on March 9, 2007, [REDACTED] terminated other Indian H2B employees despite the good quality of their work after these employees had talked to attorneys and encouraged other workers to do so also. [REDACTED] directed its staff and security personnel to terminate the employees on their way to work and "get them to the airport," actions which caused one of the workers to attempt suicide. A [REDACTED] official acknowledged that these terminations took place in the presence of hundreds of other Indian laborers reporting to work at [REDACTED] that day.

The record also contains the transcript of a March 12, 2007 meeting between [REDACTED] officials and Indian workers in which [REDACTED] discouraged the workers from suing the company or applying for T visas because the company would terminate the H2B program and would not file any visa extensions for the workers. A [REDACTED] official also reminded the workers that they had agreed to work under the company's conditions rather than having [REDACTED] "report [them] to immigration and give [them] a plane ticket for India." The relevant evidence establishes that [REDACTED] subjected Indian workers to involuntary servitude by forcing them to continue working for the company through physical restraint and the threatened abuse of the administrative legal process of removal from the United States under the Act. [REDACTED] treatment of other Indian workers during the applicant's recruitment and prior to his arrival in the United States reflects the company's intent at the time of the applicant's recruitment to treat him in the same manner had the company not denied him employment upon his arrival.

In sum, the preponderance of the evidence demonstrates that the applicant was recruited for his labor by [REDACTED] through its agent [REDACTED] fraudulent promise of permanent residency in the United States and for the purpose of the applicant's subjection to involuntary servitude. Accordingly, the applicant has established on appeal that he 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 as defined in the regulation at 8 C.F.R. § 214.11(a). The director's determination to the contrary is hereby withdrawn.

Physical Presence in the United States on Account of Trafficking

The record shows that shortly after his arrival in the United States, the applicant had no further contact with [REDACTED]. Although the applicant went to [REDACTED] Mississippi worksite, he left after being informed that there were no jobs available and the applicant indicated that he had no further contact with the company. To meet the physical presence requirement, individuals such as the applicant who escaped their traffickers before law enforcement became involved must show that they did not have a clear chance to leave the United States in the interim. 8 C.F.R. § 214.11(g)(2). On appeal, the applicant has established that he did not have a clear chance to depart the United States before he reported himself as a trafficking victim.²

In his December 19, 2011 statement submitted on appeal, the applicant credibly described his fear of contacting the police in the United States, his initial preoccupation with obtaining basic necessities such as lodging and food, his limited ability to speak English, and his ignorance of any possible legal protections available to him in the United States. The applicant also explained his fear of returning to India without having paid his debts. The applicant had about 90 percent of his debts to repay at the time of his arrival in the United States and he recounted how agents of one of his lenders would visit his home every month to threaten his family that if the applicant ever returned to India, he would be arrested and jailed. Due to the resultant anxiety over his debt and his family's safety, the applicant suffered from insomnia and both he and his family contemplated suicide.

Other evidence supports the applicant's statements. On appeal, the applicant submits a psychological assessment by [REDACTED] with the [REDACTED] diagnosed the applicant with major depressive disorder, recurrent; posttraumatic stress disorder (PTSD), chronic; and generalized anxiety disorder. [REDACTED] attributed the applicant's mental health conditions to his trafficking, his resultant debt and worries about his family in India, as

² On appeal, counsel claims that the term when "law enforcement became involved in the matter," as used in the regulation at 8 C.F.R. § 214.11(g)(2), should be interpreted in this case as the time when other federal and local law enforcement agencies became aware of [REDACTED] conflicts with its Indian workers, which occurred prior to the applicant's arrival in the United States. Neither the statute nor the regulations support such an interpretation. T nonimmigrants are granted such classification pursuant to their own, individual victimization. Section 101(a)(15)(T)(i)(I) of the Act; 8 U.S.C. § 1101(a)(15)(T)(i)(I). To demonstrate the requisite physical presence on account of trafficking, an applicant must establish that "he or she is a victim of a severe form of trafficking in persons that *forms the basis for the application.*" 8 C.F.R. § 214.11(g) (emphasis added). Accordingly, those applicants who escaped their traffickers before contacting law enforcement must show that the law enforcement agency's involvement concerned their own trafficking, not merely the trafficking of other, similarly situated individuals.

well as his experiences while held in a jail for 70 days after being detained by immigration enforcement authorities. [REDACTED] reported that his first-hand observations of the applicant's distress and fatigue were consistent with the applicant's reported symptoms of insomnia, nightmares, hopelessness, inability to concentrate and suicidal ideations, which all corresponded to his depression, PTSD and anxiety.

The record also contains copies of receipts for the applicant's initial payments to [REDACTED] and [REDACTED] attorneys in November 2006 as well as a deed of agreement and a cooperative bank loan statement documenting approximately \$15,236 of the applicant's debt. Counsel also submitted an affidavit from [REDACTED] in Bangalore, India whose academic specializations include the study of debt-related suicides in rural areas of India and the impact of rapid economic change in India and the corresponding burdens borne by those peripheral to the new economy. [REDACTED] discussed the specific economic and cultural context of the international migration of skilled workers from India and the often severe social and psychological consequences of indebtedness that they bear in order to finance their emigration. In particular, [REDACTED] reported that higher education and unemployment levels in Kerala, the applicant's home state, have forced a larger proportion of Kerala's skilled workers to become indebted to sustain their families and that Kerala has India's highest percentage of suicides, the majority of which are related to financial problems faced by families with young children. The record also contains numerous media articles regarding the prevalence of unregulated money lenders in India, their exorbitant interest rates and often violent collection tactics.

In sum, the relevant evidence demonstrates that after the applicant's arrival in the United States and his realization that he had been defrauded by [REDACTED], the consequences of his trafficking severely impaired his mental health and significantly impacted his ability to leave the United States. The applicant's initial fear of law enforcement and deportation to India are credible given his personal experiences and evidence of specific country conditions. The record indicates that during the first few months after his arrival in the United States, the applicant was preoccupied with mere survival and dealing with the consequences of his trafficking and was unable to inform a law enforcement agency of his trafficking until assisted by a charitable organization. The preponderance of the relevant evidence shows that the applicant did not have a clear chance to depart the United States in the interim under the standard and factors explicated in the regulation at 8 C.F.R. § 214.11(g)(2). Accordingly, the applicant has established that he is physically present in the United States on account of having been the victim of a severe form of trafficking, as required by section 101(a)(15)(T)(i)(II) of the Act. The director's determination to the contrary is hereby withdrawn.

Inadmissibility

Although the applicant has established his statutory eligibility for T nonimmigrant classification, the application is not approvable because he is inadmissible to the United States and his request for a waiver of inadmissibility was denied. 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). USCIS must determine if a T applicant is inadmissible and may waive certain grounds of inadmissibility "if the activities rendering the alien inadmissible . . . were caused by, or were incident to, the victimization" and USCIS determines, as a matter of discretion, that a waiver is in the national interest. Section 212(d)(13) of the Act, 8 U.S.C. § 1182(d)(13); 8 C.F.R. § 212.16(b)(1).

An applicant who is inadmissible must file a Form I-192, Application for Advance Permission to Enter as a Nonimmigrant, with his or her Form I-914, Application for T Nonimmigrant Status. 8 C.F.R. §§ 212.16(a), 214.11(j). No appeal lies from the denial of a Form I-192 submitted in connection with a T application, but an applicant may refile a waiver request and USCIS may *sua sponte* reopen or reconsider the waiver application. 8 C.F.R. §§ 103.5(a)(5), 212.16(a).

The applicant is inadmissible under section 212(a)(6)(C)(i) of the Act as an alien who procured a visa and admission to the United States by willful misrepresentation of a material fact. The applicant was granted a visa under section 101(a)(15)(H)(ii)(b) of the Act, as an alien with a foreign residence he had no intention of abandoning who was coming to the United States temporarily to perform labor. Despite his clear intention to immigrate to the United States, the applicant stated that he told the consular officer at his visa interview that he would return to India when his visa expired on July 31, 2007. Although the applicant also recounted how he was coached by [REDACTED] to misrepresent his intentions at the interview, the director did not consider whether or not his misrepresentation and resultant inadmissibility were incident to his victimization. Rather, the director denied the applicant's Form I-192 only because his Form I-914 was denied. As the sole ground for denial of the applicant's waiver request has been overcome on appeal, the matter will be returned to the director for reconsideration of the applicant's Form I-192.

Conclusion

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.11(l)(2). On appeal, the applicant has met his burden and established his statutory eligibility for T nonimmigrant classification. The director's contrary decision shall be withdrawn. The matter will be remanded to the director for reconsideration of the applicant's request for a waiver of inadmissibility.

ORDER: The December 7, 2010 decision of the Vermont Service Center is withdrawn. The matter is remanded to the Vermont Service Center for reconsideration of the Form I-192 and issuance of a new decision on the Form I-914, which if adverse, shall be certified to the Administrative Appeals Office for review.