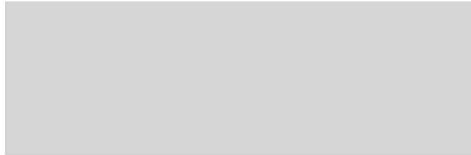




U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **AUG 20 2015**

FILE #: [REDACTED]

APPLICATION RECEIPT #: [REDACTED]

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:

NO REPRESENTATIVE OF RECORD

INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, (the director) denied the application and the Administrative Appeals Office (AAO) summarily dismissed a subsequent appeal. The appeal of that decision is now again before the Administrative Appeals Office (AAO) after being reopened *sua sponte*. The appeal will be dismissed. The application will remain denied.

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 T Nonimmigrant Status (Form I-914) for failure to establish that the applicant: (1) is a victim of a severe form of trafficking in persons; (2) is physically present in the United States on account of such trafficking; (3) has complied with any reasonable request for assistance from a law enforcement agency in the investigation or prosecution of the trafficking or related crime; and (4) would suffer extreme hardship involving unusual and severe harm upon removal. On appeal, the applicant submits a brief, his previously filed documentary evidence, and a Form I-914 personal statement from an individual who the applicant claims was granted T nonimmigrant status.

#### *Applicable Law*

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

- (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 . . . .

The term “severe forms of trafficking in persons” is defined, in pertinent part, as:

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 subsection to involuntary servitude, peonage, debt bondage, or slavery.<sup>1</sup>

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<sup>1</sup> This definition comes from section 103(8) of the Trafficking Victims Protection Act of 2000 (TVPA), Pub. L. No. 106-386 (Oct. 28, 2000), which has been codified at 22 U.S.C. § 7102(9) and incorporated into the T nonimmigrant regulation at 8 C.F.R. § 214.11(a).

The regulation at 8 C.F.R. § 214.11(l) 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 the Applicant's Claims*

The applicant is a citizen of the Philippines who entered the United States on October 28, 2008 as an H-2B temporary worker petitioned for by [REDACTED]. The applicant filed the instant Form I-914 with U.S. Citizenship and Immigration Services (USCIS) on February 26, 2014. The director issued a Request for Evidence (RFE) of the applicant's claim to being a victim of trafficking, to which the applicant responded with additional evidence. The director ultimately denied the applicant's Form I-914 and the applicant subsequently appealed. In his February 20, 2014 affidavit, the applicant provided the following account of his journey to the United States and claimed trafficking by [REDACTED] and [REDACTED]

The applicant was recruited by [REDACTED] the owner of [REDACTED] an overseas placement agency in the Philippines, for employment as a food attendant with [REDACTED]. [REDACTED] represented himself as the human resources consultant of [REDACTED]. The applicant obtained personal loans from his siblings to pay a \$5,000 recruitment fee to [REDACTED]. He subsequently attended a visa interview at the U.S. Embassy in Manila and received his H-2B visa for employment with [REDACTED].

On October 28, 2008, the applicant departed the Philippines for [REDACTED] California with other Filipino workers. [REDACTED] had issued the applicant and his fellow workers domestic airline tickets to proceed to [REDACTED], Virginia after their arrival in [REDACTED]. When the applicant arrived in [REDACTED] he met with [REDACTED] who stated that he was a partner of [REDACTED] and an associate of [REDACTED]. [REDACTED] informed the applicant that [REDACTED] was no longer his employer and he would instead be employed with [REDACTED]. The applicant later learned that [REDACTED] is the owner of [REDACTED] located in [REDACTED] Virginia.

[REDACTED] took the applicant and other Filipino workers to a hotel in [REDACTED] Virginia and told them that they each have to pay \$350 for their first month's residence at the hotel. The applicant had only \$300 and borrowed money from his fellow workers to cover the cost of rent and food. The applicant obtained his social security card on November 7, 2008. He thereafter learned that only eleven positions were available at [REDACTED] and he was not one of the individuals selected for a position.

The applicant remained unemployed for three months and then traveled to [REDACTED] California where he stayed with a friend for an additional three months. He then returned to Virginia and was hired as a cashier at a [REDACTED] store located in [REDACTED]. The applicant paid [REDACTED] \$600 to extend his H-2B status as a temporary worker, but later learned that [REDACTED] moved to Peru to evade criminal prosecution for his association with [REDACTED]. The applicant returned to [REDACTED] California where he has since worked odd jobs to cover his living expenses.

*Victim of a Severe Form of Trafficking in Persons*

On appeal, the applicant asserts that [REDACTED] subjected him to “[t]he recruitment, transportation, or obtaining of a person for labor purposes through the use of fraud.” To establish that he was a victim of a severe form of trafficking by [REDACTED] and his agents, [REDACTED] and [REDACTED], the applicant must show that they recruited, harbored, transported, provided or obtained him for his labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery. *See* 22 U.S.C. § 7102(9); 8 C.F.R. § 214.11(a) (defining the term “severe forms of trafficking in persons”). The applicant asserts that [REDACTED] and his agents used fraud to first recruit him in the Philippines for employment with [REDACTED] in [REDACTED] Florida, and after he entered the United States, to transport him to [REDACTED] Virginia for the purpose of securing his employment with [REDACTED]. However, to establish a severe form of human trafficking, the applicant must demonstrate not only a means (force, fraud or coercion), but also an end (involuntary servitude, peonage, debt bondage or slavery). Here, the record does not establish that [REDACTED] or his agents recruited, harbored, transported, provided or obtained the applicant for the purpose of subjecting him to involuntary servitude, peonage, debt bondage or slavery.

As used in section 101(a)(15)(T)(i) of the Act, the term peonage is defined as “a status or condition of involuntary servitude based upon real or alleged indebtedness.” 8 C.F.R. § 214.11(a). Involuntary servitude is defined, in pertinent part, 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 . . . would suffer serious harm or physical restraint; or the abuse or threatened abuse of legal process.” *Id.* Servitude is not defined in the Act or the regulations, but is commonly understood as the condition of being a servant or slave, or a prisoner sentenced to forced labor. *See* BLACK’S LAW DICTIONARY (B.A. Garner, ed.) (9th ed. 1999).

In this case, the applicant’s statements reflect that [REDACTED] and [REDACTED] recruited the applicant for employment in the United States as a food attendant at [REDACTED] in Florida. *See Applicant’s affidavit* at ¶ 1; *see also* [REDACTED] *of Employment*. Instead of employment with [REDACTED] transported the applicant to [REDACTED] Virginia where [REDACTED] planned to employ him with another company, [REDACTED]. *See id.* at ¶ 5. However, there is no evidence that that [REDACTED] or his agents actually or intended to subject the applicant to a condition of servitude. First, the applicant stated that he never worked at [REDACTED] because the open positions were filled by other workers. *See id.* at ¶ 7. Second, the record reflects that the applicant was free to leave his recruiters. The applicant recounted that he traveled to California after learning that he would not work at [REDACTED]. He stated that he decided to return to Virginia three months later for employment at a [REDACTED] store. *See id.* at ¶ 7-8. The record therefore lacks

any evidence that [REDACTED] or his agents actually or intended to subject the applicant to involuntary servitude, peonage or slavery.

Debt bondage is the status or condition of a debtor arising from a pledge by the debtor of his or her personal services . . . 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. 8 C.F.R. § 214.11(a). The applicant, however, has not indicated that he was indebted to [REDACTED] or [REDACTED] or that he pledged his labor or services to these individuals as security for his debt. Rather, the applicant explained that he borrowed money from his siblings and used the money to pay the required recruitment fee to [REDACTED] in its entirety prior to his entry into the United States. *See id.* at ¶ 2. The record therefore does not show that [REDACTED] or his agents actually or intended to subject the applicant to a condition or status of debt bondage.

*De novo* review of the record does not establish that [REDACTED] or his agents recruited, harbored, transported, provided or obtained the applicant for the purpose of subjecting him to involuntary servitude, peonage, debt bondage or slavery. Although the applicant submitted an indictment from the U.S. District Court for the [REDACTED] of Mississippi and a related news article, which shows that [REDACTED] was convicted of conspiracy to commit visa fraud, false statements and fraud in foreign labor contracting, the applicant has not shown that [REDACTED] actions subjected him to labor trafficking as that term is defined in the regulations. Accordingly, the applicant has not demonstrated that he 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).

*Physical Presence in the United States on Account of Trafficking*

The applicant has failed to overcome the director's determination that he is not physically present in the United States on account of the claimed trafficking. As discussed above, the record does not show that the applicant was the victim of a severe form of human trafficking and he consequently cannot show that he is physically present in the United States on account of such trafficking, as required by section 101(a)(15)(T)(i)(II) of the Act.

*Assistance to Law Enforcement Investigation or Prosecution of Trafficking*

The applicant has also not overcome the director's determination that he has not complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking or the investigation of associated crime, as required by section 101(a)(15)(T)(i)(III) of the Act. Primary evidence of this compliance is an endorsement from a Law Enforcement Agency (LEA), although USCIS will consider credible secondary evidence where the applicant demonstrates his or her good-faith, but unsuccessful attempts to obtain an LEA endorsement. 8 C.F.R. § 214.11(h).

On the Form I-914, the applicant answered "no" to questions regarding whether he had reported the crime of which he is claiming to be a victim and complied with requests from Federal, State, or local law enforcement authorities for assistance in the investigation or prosecution of acts of trafficking.

In response to the director's RFE on this ground, the applicant submitted a letter from Reverend [REDACTED] who stated that when the applicant visited the U.S. Immigration and Customs Enforcement (ICE) office in [REDACTED] he saw a sign that instructed that the office no longer accepts reports in person. The applicant submitted a photograph of the sign, which instructs that individuals should contact the Homeland Security Investigations (HSI) Tip Line or the ICE website to report any illegal immigration activity. Mr. [REDACTED] indicated that the applicant tried to call the tip line and access the website, "but got nowhere." The applicant did not further discuss any attempts to contact an LEA regarding his claims. Even if the applicant had made contact with an LEA regarding his claims, the record fails to establish that any severe form of human trafficking occurred in connection with [REDACTED] or [REDACTED]. Consequently, the applicant has not met the assistance requirement of section 101(a)(15)(T)(i)(III) of the Act.

*Extreme Hardship Involving Unusual and Severe Harm Upon Removal*

The applicant also has not demonstrated that he would suffer extreme hardship involving unusual and severe harm upon removal. The applicant did not specifically address this requirement in his affidavit; he only reiterated several factors listed in the regulations for consideration in a hardship determination, and indicated that those factors relate to his case. *See* 8 C.F.R. § 214.11(i)(1)(extreme hardship standards). Extreme hardship involving unusual and severe harm may not be based on current or future economic detriment, or the lack of, or disruption to social or economic opportunities. 8 C.F.R. § 214.11(i)(1). In addition, five of the eight factors considered in the hardship determination relate to an applicant having been a victim of a severe form of human trafficking. *Id.* at § 214.11(i)(1)(iii)-(vii). The applicant in this case has not established that he was the victim of a severe form of human trafficking.

The applicant has also not shown that he would suffer such hardship under the remaining factors, such as his age, personal circumstances, or having a serious physical or mental illness that necessitates medical or psychological attention not reasonably available in the Philippines. *Id.* at § 214.11(i)(1)(i)-(ii). Although Mr. [REDACTED] in his statement opined that the applicant "will not only be severely harmed but killed by the cohorts of [REDACTED] in his home country," the applicant did not discuss any actual threats against him or his family members in the Philippines, or provide any further, specific information to support this claim. Mr. [REDACTED] also stated that the applicant is a "plaintiff and potential witness" in a class action lawsuit against [REDACTED] and other entities. The applicant provided a copy of the civil complaint filed in the United States District Court for the [REDACTED] of Mississippi on October 28, 2011 under the Fair Labor Standards Act and Trafficking Victims Protection Act. The applicant, however, is not named as a class member and he has not discussed his involvement in the lawsuit. Nor has he discussed the outcome of the class action lawsuit over three years after it was filed. Finally, the record lacks evidence that conditions in the Philippines are equivalent to civil unrest or armed conflict resulting in the designation of Temporary Protected Status or other relevant protections under U.S. immigration law, as described at 8 C.F.R. § 214.11(i)(1)(viii). Accordingly, the relevant evidence does not establish that the applicant would suffer extreme hardship involving unusual and severe harm upon removal from the United States under the standard and factors prescribed at 8 C.F.R. § 214.11(i)(1) and as required by section 101(a)(15)(T)(i)(IV) of the Act.

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*Conclusion*

The applicant bears the burden of proof to establish his eligibility for T nonimmigrant status. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.11(l)(2). On appeal, the applicant has not met the eligibility criteria for T nonimmigrant classification at subsections 101(a)(15)(T)(i)(I)-(IV) of the Act.

**ORDER:** The appeal will be dismissed. The application remains denied.