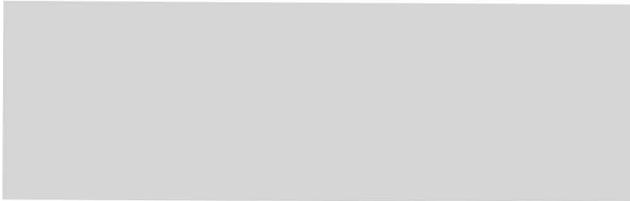




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **JUN 23 2015**

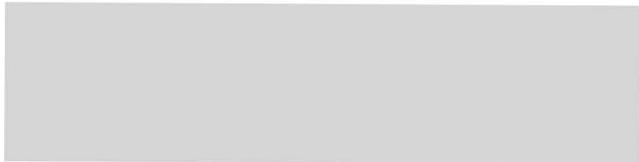
FILE #: [REDACTED]

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:



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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Vermont Service Center Director (“director”) denied the application. The matter 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 establish that the applicant was a victim of a severe form of trafficking in persons and was physically present in the United States on account of trafficking.

On appeal, the applicant submits a brief.

*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 she 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 subjection 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(8) and incorporated into the T nonimmigrant regulation at 8 C.F.R. § 214.11(a).

The regulation at 8 C.F.R. § 214.11(1) prescribes, in pertinent part, the standard of review and the applicant's burden of proof in these proceedings:

- (1) *De novo review.* [U.S. Citizenship and Immigration Services (USCIS)] 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. . . . [USCIS] 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*

The applicant is a citizen of the Philippines who first entered the United States on April 6, 2009, as an H-2B nonimmigrant to be employed by [REDACTED] as a housekeeper for hotels in Florida. The applicant filed the instant Application for T Nonimmigrant Status ("Form I-914") with U.S. Citizenship and Immigration Services ("USCIS") on October 28, 2013. 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 has subsequently appealed. In her September 19, 2013 and August 5, 2014 affidavits, the applicant provided the following account of her employment with and claimed trafficking by [REDACTED] and her recruiters in the Philippines.

The applicant initially recalled that she visited a recruiting agency in the Philippines named [REDACTED] to seek foreign employment, and was advised to obtain employment as a housekeeper in the United States because her visa could be renewed every six months and guaranteed for three years, with all expenses paid and extra money for savings. During her orientation with [REDACTED] the applicant was promised that she would work 40 hours per week plus overtime, would be paid \$7.38 per hour, have one month of free housing and free transportation to and from work, have 15 days of sick leave and 15 days of vacation, and would have three years of renewable visas. The applicant then took out a loan from her sister in the amount of \$2,500.00 and used her own savings to pay [REDACTED] a placement fee of \$4,000.00 and other expenses related to the visa process. The applicant provided a July 22, 2013 affidavit from her sister indicating that the applicant repaid the loan in 2011.

When she arrived in the United States, the applicant stated that she and seven other women were placed in an unfurnished two-bedroom apartment that lacked a bed, a closet, kitchen wares, and pillows. Some mattresses were provided, but some women had to sleep on the floor. Although [REDACTED] had promised one month of free rent, the applicant was charged the first month of rent, and was subsequently charged various rental fees depending on the number of hours she worked. She indicated that she did not seek other housing because she thought that the rental fees would still be deducted from her paycheck.

The applicant explained that she signed an employment agreement with [REDACTED] that [REDACTED] was the petitioner, and that [REDACTED] was her manager. After starting her job, the applicant was sometimes given only two to three days of work per week. Although Mr. [REDACTED] urged her to be patient, the applicant indicated that full-time work never materialized, and that Mr. [REDACTED] even transferred her to another city to work at a fast food restaurant named [REDACTED] even though she was assured she would be employed only in hotels. The applicant indicated that she was provided free transportation to and from work and the grocery store, but asserted that the transportation was never on her schedule and required supervisory approval. The applicant asserted that she was asked to pay \$700.00 to have her visas renewed, and that she was forced to work when she was ill even though she had been promised sick leave. Finally, the applicant attested that she obtained permission from Mr. [REDACTED] to leave her employment, and traveled to California to work as a caregiver. When Mr. [REDACTED] contacted her, told her he had obtained additional employment for her and advised her that she had to return to work for [REDACTED] the applicant traveled back to California. She asserted that she was placed in several employment positions unrelated to housekeeping, such as a job at a bottling factory where she initially had full-time employment plus overtime pay, but was moved to another employment location. When her new position required her to work seven days a week but paid for only 40 hours of work, the applicant left and moved to New York where a friend helped her to obtain new employment.

As a result of her situation, the applicant asserted that she now suffers from constant stress and worry. She stated that she and her sister lost their life savings to pay the recruiter fee to [REDACTED] although her sister provided an affidavit in which she asserted that the applicant had repaid the personal loan to her in 2011. The applicant provided copies of a seasonal contract for [REDACTED], which she signed on February 5, 2009, and in which she agreed to an hourly salary of \$7.38 for a 40-hour work week for a nine-month period. She also provided a copy of a model contract that she and [REDACTED] signed in which she was promised free transportation to and from work, but the contract was marked "not applicable" to indicate that the applicant would not be provided free food or housing. The applicant provided pay stubs from October 2009 to June of 2010 showing that she was once paid a rate of \$7.36 per hour for one bi-weekly pay period, but was paid either \$8.00 or \$9.00 per hour after that. The pay stubs also reflect that the applicant worked from 20 to 40 hours per week at that rate, and sometimes earned overtime. In response to the RFE, the applicant reiterated her initial claims, adding that because she never signed a contract with [REDACTED] all their promises were oral. She confirmed that she signed an employment contract with [REDACTED] prior to beginning her employment, but suggested that she did not understand what she was signing.

On appeal, the applicant again asserts she suffered financial, physical, and emotional hardship related to her employment, immigration status, and corresponding worries regarding her and her family's future and wellbeing. She reasserts that she has substantial debt and claims that she was forced to pay her visa extension fees. She also describes worrying about how she would repay her debts. The applicant includes recent tax records from 2013 showing that she is employed as a cashier at a restaurant in [REDACTED], New York.

*Victim of a Severe Form of Trafficking in Persons*

The applicant claimed she was a victim of labor trafficking by [REDACTED] and [REDACTED], which forced her into involuntary servitude and peonage. After reviewing the applicant's initial submission and response to a request for further evidence, the director determined the applicant did not establish that she was a victim of a severe form of trafficking in persons.

To establish that she was a victim of a severe form of trafficking by [REDACTED] and [REDACTED] the applicant must show that these entities recruited, harbored, transported, provided, or obtained her for her 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(8); 8 C.F.R. § 214.11(a) (defining the term "severe forms of trafficking in persons"). On appeal, the applicant asserts that both entities subjected her to forced labor through coercion, peonage, and threatened abuse of the immigration laws. The applicant's claims and the additional evidence submitted on appeal are insufficient to establish her eligibility. The applicant has not established by a preponderance of the evidence that [REDACTED] and [REDACTED] trafficked her through employment through fraud or coercion for the purpose of subjecting her to peonage.

As used in section 101(a)(15)(T)(i) of the Act, the term "coercion" is defined as: "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." 8 C.F.R. § 214.11(a). "Peonage" is defined as "a status or condition of involuntary servitude based upon real or alleged indebtedness." *Id.* "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 . . . the abuse or threatened abuse of legal process." *Id.* On appeal, the applicant asserts that [REDACTED] and [REDACTED] indirectly coerced her because she "was fraudulently induced to take on substantial debt in order to come to the United States with promises of a better life and the prospect of at least three years of steady, full-time employment." She claims that her recruiter and employer used a variety of coercive tactics to control her and force her to provide services to them, including forcing her to pay extension petition fees, restriction of movement, and isolation. The record does not support the applicant's claims to have been trafficked for three principal reasons.

First, although the applicant stated that she was trafficked by [REDACTED] and [REDACTED] the applicant twice left [REDACTED] before the end of her employment contract, moving first to California, returning to [REDACTED] in Florida, and then moving to New York where she is still working. Consequently, the record shows that the applicant has moved between multiple, unrelated employers and lacks evidence that [REDACTED] or [REDACTED] actually subjected or intended to subject her to involuntary servitude.

Second, the record does not show that the applicant's employers intended to subject her to peonage through involuntary servitude based on real or alleged indebtedness. According to the applicant, her sister provided her with part of the money to pay the recruiter fee to [REDACTED] and the applicant paid the rest. Although the applicant repeatedly asserted that she still has debt to her sister and could be

placed in debtor's prison in the Philippines, there is no evidence of this in the record. In fact, the applicant's sister provided an affidavit in which she asserted that the applicant repaid the loan in 2011. Moreover, although the applicant claims on appeal that she was also forced to pay for visa renewals and to take on additional debt once in the United States, the record does not show that she was forced to take on additional debt to do so. Accordingly, the relevant evidence shows that the applicant incurred private and personal loans shortly before her employment in the United States, but the record does not reflect that the applicant was ever indebted to [REDACTED] or [REDACTED] or that they forced her into indebtedness.

Third, the record does not support the applicant's claim that [REDACTED] and [REDACTED] engaged in coercion because she was "fraudulently induced to take on substantial debt in order come to the United States with promises of a better life and the prospect of at least three years of steady, full-time employment." First, the loan she took from her sister was for a partial payment to [REDACTED] a foreign recruiter in the Philippines, and not to her employer, [REDACTED]. Although the applicant asserted that she would face hardship in the Philippines and perhaps debtor's prison, she voluntarily agreed to pay the recruiter fees before she came to the United States, she obtained a private loan to do so prior to her entry, and the letter from her sister shows that she paid off her loan debt in full. The actions outlined by the applicant do not establish that she was forced to take on a huge amount of debt.

Finally, the record does not support the applicant's claim that [REDACTED] or [REDACTED] trafficked her through force or coercion by restricting her movement and preventing her from seeking employment elsewhere. The applicant explained that when [REDACTED] failed to provide her with sufficient work hours, she left its employ for California, and then returned when the entity contacted her and suggested that it could provide her with more work. When she found herself being overworked and underpaid in Florida, she again left [REDACTED] for employment in New York. The record thus does not show that [REDACTED] or [REDACTED] obtained her services through fraud, force, or coercion involving physical restraint or other restriction of her movement.

In summary, the applicant has not established that [REDACTED] or [REDACTED] ever subjected her to a severe form of trafficking in persons. Although the record suggests that the applicant was under considerable financial pressure and experienced stress and anxiety, the relevant evidence does not show that [REDACTED] or [REDACTED] obtained the applicant's labor through force, fraud, or coercion for the purpose of subjecting her to involuntary servitude, peonage, debt bondage, or slavery. Although the applicant submitted evidence relating to a money she borrowed from her sister as a placement fee to [REDACTED] the record contains no evidence that the applicant was ever indebted to [REDACTED] or [REDACTED] or that these entities forced or coerced her to go into debt. Moreover, her sister advised that the applicant repaid the money in 2011. Finally, the record lacks any evidence that the applicant was ever subjected to involuntary servitude or peonage or that [REDACTED] or [REDACTED] ever intended to subject her to such conditions. To the contrary, the record shows that the applicant's employer petitioned for her as an H-2B nonimmigrant worker, and that although it did not always provide her with full-time employment, the 2009 and 2010 pay stubs the applicant provided show that it employed her at the hourly salary listed in her signed employment contract or at a higher rate. Moreover, the applicant voluntarily left [REDACTED] to pursue

other employment in California, returned to [REDACTED] in Florida when it promised additional employment, and then ultimately left again to seek employment in New York. Consequently, the applicant has not demonstrated that she was the victim of a severe form of trafficking in persons, as required by section 101(a)(15)(T)(i)(I) of the Act.

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

The applicant has not overcome the director's determination that she 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 she consequently cannot show that she 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*

Our *de novo* review of the record reveals an additional basis of ineligibility, namely that the applicant 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 her or her good-faith, but unsuccessful attempts to obtain an LEA endorsement. 8 C.F.R. § 214.11(h).

The applicant submitted copies of a letter and electronic mails sent to Department of Justice ("DOJ") on her behalf requesting law enforcement certification for the applicant as victim of trafficking. These communications evidence the applicant's attempts to notify DOJ of the claimed trafficking, but the record does not reflect a response from DOJ beyond acknowledgement of receipt of the information. As the record otherwise does not establish any severe form of human trafficking in connection with the applicant's employment with [REDACTED] the applicant has not met the assistance requirement of subsection 101(a)(15)(T)(i)(III) of the Act.

*Extreme Hardship Involving Unusual and Severe Harm Upon Removal*

Our *de novo* review of the record also does not lead to a conclusion that the applicant would suffer extreme hardship involving unusual and severe harm upon removal. In her affidavits, the applicant claimed she would suffer extreme hardship if forced to return to the Philippines because she had not paid her debts and could be placed in debtor's prison and because she believes her alleged traffickers in the Philippines would retaliate against her and her family. She asserted that it would be difficult to find work in the Philippines because she would be considered old at 31 years of age and feared what her potential employers there would think of her for not having been successful in the United States. In her August 5, 2014 statement, the applicant suggested that she is hoping a criminal case will be brought against her alleged traffickers and that she wants to remain in the United States to pursue a case.

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 she was the victim of a severe form of human trafficking and she submitted no evidence to support her claims that difficulty in obtaining employment would cause her extreme hardship involving unusual and severe harm. The applicant has also not shown that she would suffer such hardship under the remaining factors. The record contains a copy of the correspondence that the applicant's attorney sent to DOJ, but there is no evidence that DOJ or any other U.S. government agency initiated an investigation or prosecution of [REDACTED] related to the applicant's employment. The record also lacks evidence that the crime rate or other 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).

The applicant described the financial and emotional difficulties she endured while in the United States. However, the relevant evidence does not establish that she 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.

#### *Conclusion*

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. The applicant bears the burden of proof to establish her eligibility for T nonimmigrant status. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.11(l)(2); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.