



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF S-A-A-

DATE: SEPT. 2, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

APPLICATION: FORM I-914, APPLICATION FOR T NONIMMIGRANT STATUS

The Applicant seeks nonimmigrant classification as a victim of a severe form of trafficking in persons. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(T)(i), 8 U.S.C. § 1101(a)(15)(T)(i). The Director, Vermont Service Center, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

The Director denied the Form I-914, Application for T Nonimmigrant Status, for failure to establish that the Applicant is a victim of a severe form of trafficking in persons, is physically present in the United States on account of such trafficking, and has complied with any reasonable request for assistance from a law enforcement agency in the investigation or prosecution of the trafficking or related crime. On appeal, the Applicant submits a brief and additional evidence.

**I. 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, subject to section 214(o) of the Act, 8 U.S.C. § 1184(o):

- (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) [w]ould suffer extreme hardship involving unusual and severe harm upon removal . . . .

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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>

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.

## II. PERTINENT FACTS AND THE APPLICANT’S CLAIMS

The Applicant is a citizen of the Philippines who last entered the United States on March 9, 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 April 14, 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 her March 15, 2014 and July 8, 2014 affidavits, the Applicant provided the following account of her journey to the United States and claimed trafficking by [REDACTED] and [REDACTED]

In 2007, the Applicant learned that [REDACTED] an overseas recruitment agency in the Philippines, was looking for housekeepers and cleaners to send to the United States. She immediately sent the agency the requested documents and was scheduled for an interview. The Applicant passed the interview and then attended an orientation seminar. During the orientation, [REDACTED] owner of [REDACTED] and [REDACTED] and [REDACTED] owner of [REDACTED] promised that she would be given a three-year contract to work at hotels and resorts, a schedule of forty hours per week plus overtime, free board and lodging, and free visa renewals every six months. The Applicant signed a contract with [REDACTED] that was written in English and not translated into her native language.

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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).

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The Applicant was initially told to pay \$600 to [REDACTED] as the initial processing fee. The next day she was asked to give an additional 15,000 Philippine Pesos (PhP). The Applicant paid these fees with the help of her family. [REDACTED] then informed the Applicant that she had to pay \$130 for her H-2B visa and PhP 1,500 for her visa interview at the U.S. Embassy. After she received her H-2B visa, [REDACTED] asked her to pay the remaining balance of her placement fees. The Applicant took loans in the amount of PhP 200,000 (\$4,500) from the [REDACTED] and PhP 150,000 (\$3,500) from the [REDACTED] to pay the placement fees. She believes that the fees she paid totaled approximately PhP 300,000 (\$7,000).

The Applicant received her passport and visa prior to her arrival in the United States. She and other workers arrived in [REDACTED] Florida on March 9, 2008. They were met by [REDACTED] the wife of [REDACTED], and taken to the [REDACTED] home in [REDACTED] Florida. The next day, they were taken to [REDACTED] in [REDACTED] Florida and were informed they would work at that hotel. This was in conflict with their contract, which said that they would be working at the [REDACTED] in [REDACTED] Florida.

The Applicant was housed in a small room with three other individuals inside the [REDACTED]. She had to take a bus to the public market to purchase food and other items. She worked mostly 40 hours per week and was paid \$8.00 per hour. The Applicant had duties as a housekeeper, pool attendant, and she sometimes worked in the kitchen and laundry room. She had to pay \$500 for the renewal of her H-2B visa.

In July 2008, the Applicant was assigned to work at The [REDACTED] in [REDACTED] South Carolina. She stayed in an apartment with other Filipino workers and had to pay rent on a bi-monthly basis through deductions from her salary. The Applicant was located far from the marketplace and she walked 40 minutes to and from work. She earned \$7.25 per hour, but was not always given a schedule of 40 hours per week. After two months the Applicant and other workers were terminated from their positions and told to return to the Philippines.

The Applicant then transferred to another agency, [REDACTED] and paid \$500 for the extension of her H-2B status. In October 2008, the Applicant was placed at the [REDACTED] in [REDACTED], Missouri. At this hotel, she earned \$7.00 per hour, but was not always given a schedule of 40 hours of work per week. The Applicant stayed in a motel room with four other Filipino workers. Rent and transportation fees were deducted from her paycheck and she had a 10 p.m. curfew. In December 2008, the Applicant and other workers were informed that their last day of work would be at the end of the month and they should then return to the Philippines.

The Applicant paid a woman named [REDACTED] \$400 for the extension of her H-2B status. [REDACTED] however, disappeared and never provided the Applicant with the extension of her H-2B status. The Applicant is currently residing with her relatives in Illinois and has worked as a housecleaner, nanny and elder caregiver.

The Applicant also recounted financial and emotional hardships since her arrival in the United States. The Applicant stated that she still has outstanding loans and struggles to support her family in the Philippines. She stated that she lives in fear of deportation and her job opportunities are

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limited because of her unlawful status. The Applicant also recounted the following fears if returned to the Philippines: she will be unable to secure employment due to age discrimination; the typhoon of 2013 has made it even more difficult to find work and has taken a toll on the economy; [REDACTED] has influence in the Philippines and may retaliate against her and her family members; and potential employers in the Philippines would think unfavorably of her for not succeeding in the United States.

### III. VICTIM OF A SEVERE FORM OF TRAFFICKING IN PERSONS

The Applicant claims that she was the victim of labor trafficking because [REDACTED] and [REDACTED] forced her into involuntary servitude and peonage. After reviewing the Applicant's initial submission and response to a request for further evidence, the Director acknowledged that aspects relating to the promised number of weekly hours, free transportation and groceries, and free visa renewals may have been misrepresented to the Applicant. The Director determined, however, that the Applicant was not a victim of a severe form of trafficking in persons because the record does not show that she was subject to a scheme involving force, fraud or coercion intended to create an atmosphere of fear, as required to establish involuntary servitude and peonage.

To establish that she was a victim of a severe form of trafficking by her employer and recruiter, the Applicant must show that they 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(9); 8 C.F.R. § 214.11(a) (defining the term "severe forms of trafficking in persons"). While it is clear that [REDACTED] and [REDACTED] obtained the Applicant's services as a hotel housekeeper, to establish a severe form of human trafficking, she must also demonstrate two essential elements: a means (force, fraud or coercion) and an end (involuntary servitude, peonage, debt bondage or slavery). The record in this case fails to establish either of these elements.

On appeal, the Applicant claims that she "experienced Coercion, Peonage and Threatened Abuse of Law or Legal Process during her recruitment and employment with [REDACTED] and [REDACTED] which "fraudulently induced [her] to take on substantial debt . . . with promises of a better life and the prospect of at least three years of steady, full-time employment. . . ." The Applicant's claims and the additional evidence submitted on appeal do not establish the Applicant's eligibility. The record shows that [REDACTED] recruited the Applicant, and that [REDACTED] through his companies, [REDACTED] and [REDACTED] petitioned for the Applicant's H-2B visa and employed her as a hotel housekeeper, but the relevant evidence does not establish that they did so through fraud or coercion for the purpose of subjecting the Applicant to peonage.

#### A. No End: No Peonage or Involuntary Servitude

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

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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 relevant evidence shows that the Applicant was employed and compensated pursuant to her employment agreements with [REDACTED] and [REDACTED]. The record lacks evidence that [REDACTED] or their recruiter, [REDACTED], ever subjected the Applicant to any "condition of servitude," the underlying requisite to involuntary servitude and peonage.

The record shows that the Applicant was admitted to the United States on March 9, 2008 as an H-2B temporary worker petitioned for by [REDACTED]. The Applicant's offer of employment from [REDACTED] provides that she would be earning \$7.15 per hour for 40 to 50 hours a week as a housekeeper/cleaner at the [REDACTED], located in the [REDACTED]. She asserted, however, that [REDACTED] placed her at another hotel located in the [REDACTED] where she worked as a housekeeper for "mostly" 40 hours per week and was paid higher than the proffered salary at a rate of \$8.00 per hour. The Applicant did not provide earning statements, an IRS Form 1040, U.S. Individual Income Tax Return, or an IRS Form W-2, Wage and Tax Statement, to document her salary while she was employed with [REDACTED]. The record shows that on May 30, 2008, [REDACTED] filed a petition to extend the Applicant's H-2B status. The petition was granted and the Applicant's H-2B status was extended to December 15, 2008. The Applicant stated that she was assigned to work at [REDACTED] South Carolina where she earned \$7.25 per hour, but was not always given a schedule of 40 hours per week. The Applicant did not submit her employment contract, tax return, Form W-2, or any other evidence, aside from a single earnings statement from [REDACTED] dated September 5, 2008, showing that she actually earned \$8.00 per hour. Although the Applicant did not submit copies of her employment contracts or any documents reflecting her gross salary with either company, in her statements she indicated that she willingly entered into employment agreements, was placed in agreed-upon positions, and was paid for the hours she worked. The record thus lacks any evidence that [REDACTED] or their recruiter, [REDACTED] actually or intended to subject the Applicant to a condition of servitude.

The record also does not show that [REDACTED] or their recruiter, [REDACTED] actually or intended to subject the Applicant to peonage through involuntary servitude based on real or alleged indebtedness. The Applicant stated that she paid approximately \$7,000 in recruitment fees and completed her payments to [REDACTED] prior to her entry into the United States. She submitted letters from the [REDACTED] and [REDACTED] certifying that she secured loans in the amount of PhP 200,000 and PhP 150,000, respectively. She indicated in her first statement that "[t]he interests on [her] loans keep piling up, bills need to get paid . . . ." However, she has not provided any evidence that she was or is in arrearages on any debt. The Applicant also stated that she was told that housing would be provided to her for free. However, her offer of employment from [REDACTED] shows that she was informed that housing would cost \$60.00 per week. As discussed, the Applicant has not provided her employment contracts, 2008 tax return, or Form W-2s, to show her salary with [REDACTED] and [REDACTED]. Moreover, the record does not show that these agencies or [REDACTED] induced the Applicant to obtain any personal loans to pay the recruitment fees.

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The Applicant has not submitted any documentary evidence showing that she took out any additional loans or otherwise could not meet her financial obligations.

*De novo* review of the record, as supplemented on appeal, fails to show any actual or intended condition of servitude or real or alleged indebtedness to [REDACTED] [REDACTED] or their recruiter, [REDACTED]. Consequently, the record does not demonstrate the claimed end of the alleged trafficking: peonage.

#### B. No Means: No Force, Fraud or Coercion

The record also does not evidence the means requisite to the Applicant's trafficking claim. The Applicant claims that [REDACTED] [REDACTED] and [REDACTED] engaged in a "psychologically coercive and financially ruinous trafficking scheme that subjected her to exorbitant debt and forced labor." She adds that they used a variety of coercive tactics, "including abuse of the legal process, isolation, and segregation to attempt to control her actions and to force her to provide service to them." The Applicant has not provided any examples showing that she was isolated, segregated, or forced to serve [REDACTED] and [REDACTED]. Rather, the Applicant recounted in her first statement that she lived with three other people in a room at the [REDACTED] and she resided with other Filipino workers in an apartment when she worked at [REDACTED]. In her second statement, she asserted that her employers held her Notice of Action. However, she submitted copies of her H-2B approval notices with the instant application as well as her passport and other identity documents. She also indicated that she had a 10:00 p.m. curfew each night, but she did not provide any further details. The Applicant instead recounted that, "[w]e were free to go out on our days off . . . ." The evidence presented by the Applicant reflects that she voluntarily accepted offers of employment from [REDACTED] and [REDACTED]. [REDACTED] she was placed in the agreed-upon positions and paid for the hours she worked, and she was free to come and go from her work premises and home. The record therefore does not support the Applicant's assertions of isolation, segregation or forced service.

The Applicant asserts that [REDACTED] [REDACTED] and [REDACTED] "knowingly obtained her labor by abuse and threatened abuse of United States immigration law" and "manipulated the legal process by improperly using the H2B visa system to force her to take on a huge amount of debt." 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). However, as explained above, these possible violations did not compel the Applicant to work by inducing her indebtedness. Rather, the Applicant stated that she paid for her H-2B visa, petition and recruitment fees through personal loans. The Applicant also recounted in her second statement that "[t]hey told us that if we did not follow their rules, they would get us deported." However, her brief one-sentence statement lacks any probative details. She did not clarify the circumstances under which she was threatened with deportation and which individuals made the threats. The relevant evidence does not show that the actions of [REDACTED] [REDACTED] or [REDACTED] amounted to coercion through the abuse or threatened abuse of the legal process against the Applicant.

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The record also does not support the Applicant's claim that [REDACTED] and [REDACTED] secured her services through fraudulent promises of long-term employment. The Applicant asserts that her recruiter and employers promised at least three years of employment and "dangled the prospect of permanent work." She recounted in her first statement that she was offered a three-year employment contract and in her second statement she recounted that she "would get free visa renewals every six months." However, none of the documents the Applicant submitted reference any of these terms. The record instead shows that the offer of employment the Applicant accepted from [REDACTED] was for a temporary position from January 2, 2008 until May 31, 2008. The Applicant was authorized for employment as an H-2B temporary worker with [REDACTED] from her admission into the United States on March 9, 2008 until May 31, 2008. Her H-2B status was then extended by [REDACTED] from June 4, 2008 until December 15, 2008. The Applicant submitted no documentation from [REDACTED], [REDACTED] or [REDACTED] that references three years of employment, or "visa renewals every six months."

Finally, the record does not support the Applicant's claim that that [REDACTED], [REDACTED] and [REDACTED] trafficked her through force or coercion by restricting her freedom of movement. As stated, the Applicant asserted in her second statement that her employers held her Notice of Action. However, the Applicant submitted copies of her birth certificate, the biographical page of her passport, her H-2B visa, Form I-94, Social Security Card, and the H-2B approval notices issued to [REDACTED] and [REDACTED]. She has not indicated when or how she obtained access to her immigration and identity documents in light of her statement that her employers held her important documents such as her Notice of Action. Although the Applicant also claimed in her second statement that she was threatened with deportation if she did not stay in the assigned apartment and she had a 10:00 p.m. curfew each night, she did not describe these incidents in any probative detail. The Applicant recounted in her first statement that after her employment with [REDACTED] she independently transferred to another employment placement agency, [REDACTED] and there is no indication that [REDACTED] or [REDACTED] prevented her from seeking alternative employment. The record thus does not show that these agencies secured the Applicant's services through fraud, force or coercion.

### C. Summary: No Severe Form of Trafficking in Persons

The record documents the Applicant's employment with [REDACTED] and [REDACTED] but does not establish that this company or its agents or recruiters ever subjected her to a severe form of trafficking in persons. Although the Applicant submitted evidence that [REDACTED] who controlled [REDACTED] and [REDACTED] was convicted in the U.S. District Court for the [REDACTED] of Missouri on October 28, 2010 of racketeering, participating in a Racketeer Influenced and Corrupt Organization Act conspiracy and wire fraud, the Applicant has not shown that she herself was a victim of these offenses or that [REDACTED] actions subjected her to labor trafficking as that term is defined in the regulations. The record instead shows that the Applicant entered into voluntary employment agreements with the agencies, she was paid for the hours she worked, and she was employed in agreed-upon positions. The Applicant secured personal loans to pay for recruitment fees, but there is no evidence that her employers or recruiters forced her into indebtedness to cover those costs. The record shows that she

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had freedom of movement, access to her immigration and identity documents, and she subsequently received an extension of her H-2B status from another employment placement agency without any interference from [REDACTED] [REDACTED] or [REDACTED]. The relevant evidence therefore does not establish that these agencies obtained the Applicant's services through force, fraud or coercion for the purpose of subjecting her to involuntary servitude, peonage, debt bondage, or slavery. 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.

#### IV. PHYSICAL PRESENCE IN THE UNITED STATES ON ACCOUNT OF TRAFFICKING

The Applicant has failed to 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.

#### V. ASSISTANCE TO LAW ENFORCEMENT INVESTIGATION OR PROSECUTION OF TRAFFICKING

The Applicant has also not overcome the Director's determination that she 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). The Applicant submitted an unsigned copy of a letter and a follow-up electronic mail message addressed on her behalf to the U.S. Department of Justice, Civil Rights Division seeking law enforcement certification as a victim of human trafficking. These documents evidence the Applicant's attempts to notify this agency of her claims, but the record fails to establish that any severe form of human trafficking occurred in connection with the Applicant's employment with [REDACTED] [REDACTED] or [REDACTED]. Consequently, the Applicant has not met the assistance requirement of subsection 101(a)(15)(T)(i)(III) of the Act.

#### VI. CONCLUSION

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). On appeal, the Applicant has not met the eligibility criteria for T nonimmigrant classification at subsections 101(a)(15)(T)(i)(I)-(III) of the Act.

**ORDER:** The appeal is dismissed.

Cite as *Matter of S-A-A-*, ID# 13242 (AAO Sept. 2, 2015)