



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

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

MATTER OF P-T-Q-

DATE: SEPT. 21, 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 because the Applicant did not establish that he was a victim of a severe form of trafficking in persons, was physically present in the United States on account of such trafficking, and had complied with any reasonable request for assistance in the investigation or prosecution of acts of severe forms of trafficking in persons. The matter is now before us on appeal. The appeal will be dismissed.

**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(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.

## II. PERTINENT FACTS

The Applicant is a citizen of the Philippines who first entered the United States on November 18, 2007, as an H-2B nonimmigrant to be employed by [REDACTED] as a room cleaner at [REDACTED] in [REDACTED] New Jersey. The Applicant filed the instant Application for T Nonimmigrant Status (Form I-914) with U.S. Citizenship and Immigration Services (USCIS) on June 13, 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 has subsequently appealed, filing a brief. In his May 20, 2014 and December 9, 2014, affidavits, the Applicant provided the following account of his employment with and claimed trafficking by, collectively, [REDACTED]

The Applicant initially recalled that a man told him about a job vacancy with [REDACTED] a recruiting agency in the Philippines. The Applicant visited [REDACTED] and ultimately was interviewed by a man named [REDACTED] whom the Applicant claimed promised him employment as a room attendant at [REDACTED] a monthly salary of \$1,200.00, overtime pay, additional part-time jobs for extra income, free and adequate housing with complete amenities and free food, free transportation,

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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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and help renewing his authorized period of stay. In response to the RFE, he elaborated that [REDACTED] also promised him overtime, free housing, and three years of employment with free renewals of his visa every six months. The Applicant stated that [REDACTED] asked him to pay \$7,000.00 to cover its placement fee and various other costs including his plane ticket, medical exam, and visa. According to the Applicant, he borrowed PHP 180,000 from his mother.

After he arrived in the United States, the Applicant indicated that he was transferred to various work sites around the United States beginning with a location in Florida rather than with [REDACTED] in New Jersey, as promised. According to the Applicant, his first place of employment was at [REDACTED]. Rather than free and adequate housing, free transportation, and free food, he claimed that he was housed in a small, one-bedroom apartment with another male without amenities, that he was charged \$330.00 per month for rent, that he had to pay for his own food and share a communal kitchen, and did not have free transportation to and from work. Although he was initially employed full-time, the Applicant asserted that he was never paid \$1,200.00 per month. When his assigned work hours dwindled, the Applicant indicated that he was transferred to a new employment location in South Carolina and then another one in [REDACTED] Arizona where he experienced similar working conditions and inadequate and expensive housing arrangements. The Applicant attested that he was not allowed to look for an alternative place to live and was threatened with deportation if he did not “follow the rules.”

In response to the RFE, the Applicant advised that “the agency” subsequently deducted \$300.00 and then \$250.00 from his paycheck for two visa renewals. Finally, in March of 2009, the applicant indicated that a representative of [REDACTED] advised him and some other employees that there was no more work and provided the Applicant with termination papers. According to the Applicant, [REDACTED] threatened to have him deported if he did not sign the papers. Despite this, the Applicant advised that he was so afraid to be sent back to the Philippines when he had not repaid his mother and saved up any money, that he did not sign the letter. He indicated that he is currently living and working in New York as a caregiver. As a result of his situation, the Applicant asserted that he has suffered from constant fear and worry that he might be deported, about his ability to support his family, and fear that his traffickers would retaliate against him for talking about his situation. He indicated that he had trouble repaying the loan to his mother, and provided a February 10, 2014 letter from his mother attesting that he had not fully repaid the loan. Finally, the Applicant asserted that he is concerned that he would be unemployable in the Philippines because of age discrimination and the perception of potential employers that he was not “successful” in the United States.

The Applicant provided a letter from [REDACTED] which offered the Applicant work as a cleaner at [REDACTED] at an hourly rate of \$7.16 for 40 to 50 hours per week, and eight months of employment from October 1, 2007 to May 1, 2008. [REDACTED] also offered him housing at \$110.00 per week. The Applicant also provided an Employment Master Contract from [REDACTED] offering the Applicant employment by [REDACTED] for \$1,200.00 per month for eight hours a day, six days a week. This contract was signed by [REDACTED] in his capacity as President of [REDACTED]. The Applicant provided documents showing that in 2011, [REDACTED] was convicted of involvement in an employment trafficking scheme. In response to the RFE, the Applicant included one pay stub from his employment for [REDACTED] South Carolina and two pay stubs from his employment

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period in Arizona showing that although he was not always employed on a full-time basis, he was paid at an hourly rate of approximately \$8.00 plus additional money for some overtime. The Applicant also reiterated his initial claims, adding that he signed an employment contract with [REDACTED] prior to beginning his employment, but suggested that he did not understand what he was signing.

On appeal, the Applicant again asserts he suffered financial, physical, and emotional hardship related to his employment, immigration status, and corresponding worries regarding his and his family's future and wellbeing. He lists [REDACTED] as his alleged traffickers. He also asserts on appeal that [REDACTED] owned [REDACTED] but does not provide additional evidence establishing this relationship. The other evidence of record reflects that [REDACTED] was the president of [REDACTED]. As the Applicant has not claimed on appeal that he was trafficked by [REDACTED], we will address only his assertions that he was trafficked by [REDACTED] and [REDACTED].

### III. ANALYSIS

#### A. Victim of a Severe Form of Trafficking in Persons

The Applicant claimed he was a victim of labor trafficking by [REDACTED] which he claims forced him 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 he was a victim of a severe form of trafficking in persons.

To establish that he was a victim of a severe form of trafficking by [REDACTED] the Applicant must show that these entities 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(8); 8 C.F.R. § 214.11(a) (defining the term "severe forms of trafficking in persons"). On appeal, the Applicant asserts that these entities subjected him to forced labor through coercion, peonage, and abuse of the H-2B process. The Applicant's claims are insufficient to establish his eligibility. The Applicant has not established by a preponderance of the evidence that [REDACTED] trafficked him through fraud or coercion for the purpose of subjecting him 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.* 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 relevant

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evidence does not show that the Applicant was subjected to any “condition of servitude,” the underlying requisite to involuntary servitude and peonage.

On appeal, the Applicant asserts that [REDACTED] indirectly coerced him because he “fraudulently charmed [into debt peonage to his mother] . . . with gainful employment.” He claims that his recruiters and employer used a variety of coercive tactics to control him and force him to provide services to them, including forcing him to pay high placement and housing fees, isolation, false promises, and segregation. The record does not support the Applicant’s claims to have been trafficked for several principal reasons.

First, although the Applicant has asserted that he was trafficked by [REDACTED] of [REDACTED] he has since obtained other employment in New York, where he is still working. Consequently, the record shows that the Applicant has moved between multiple, unrelated employers and lacks evidence that [REDACTED] actually subjected or intended to subject him to involuntary servitude.

Second, the record does not show that [REDACTED] of [REDACTED] intended to subject the Applicant to peonage through involuntary servitude based on real or alleged indebtedness. According to the Applicant, he borrowed money from his mother to pay the [REDACTED] recruiter fees shortly before travelling to his employment in the United States; however, the record does not reflect that he was ever indebted to [REDACTED] or that they forced him into indebtedness.

Third, the record does not support the Applicant’s claim that [REDACTED] or [REDACTED] engaged in coercion because he was “fraudulently charmed [into debt peonage to his mother] . . . with gainful employment.” The Applicant borrowed money from his mother for the payment to [REDACTED] a foreign recruiter in the Philippines, and not to [REDACTED] or [REDACTED]. Moreover, he voluntarily agreed to pay the recruiter fees before he came to the United States. The actions outlined by the Applicant do not establish that he was forced to borrow money from his mother. Once in the United States, it appears that although he was not always provided full-time employment, [REDACTED] paid him more than the hourly rate he was initially proffered. The offer of an employment position from [REDACTED] does not suggest that it promised him a monthly salary of \$1,200.00, overtime pay, additional part-time jobs for extra income, free and adequate housing with complete amenities and free food, free transportation, and help renewing his authorized period of stay. Instead, the evidence of record reflects that [REDACTED] generally conformed to the terms of its offer of employment and even paid the Applicant more than the proffered hourly rate.

Finally, the record does not support the Applicant’s claim that [REDACTED] or [REDACTED] trafficked him through force or coercion by restricting his movement, forcing him to pay for housing, and preventing him from seeking employment elsewhere. The record does not establish that [REDACTED] had any contact with the Applicant once he arrived in the United States. Although [REDACTED] the entity which pay stubs show employed the Applicant, deducted housing from his pay stubs, [REDACTED]’ initial offer of employment reflected that they would charge the

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Applicant for rent, and the Applicant signed the offer before he left the Philippines for his U.S. employment. [REDACTED] also does not appear to have offered the Applicant additional part-time jobs in its offer of employment, and to the extent that the Applicant may have been restricted from seeking additional employment while working for [REDACTED] this also would have been a condition of his H-2B nonimmigrant status. *See* 8 C.F.R. § 214.1(e). Once his term of employment ended, the Applicant indicated that he remained in New York and has sought new employment. The record thus does not show that [REDACTED] obtained the Applicant's services through fraud, force, or coercion involving physical restraint or other restriction of his movement.

In summary, the Applicant has not established that [REDACTED] ever subjected him 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 him to involuntary servitude, peonage, debt bondage, or slavery. The record contains no evidence that the Applicant was ever indebted to [REDACTED] or that they forced or coerced the Applicant to go into debt. Finally, the record lacks any evidence that the Applicant was ever subjected to involuntary servitude or peonage or that [REDACTED] ever intended to subject him to such conditions. To the contrary, the record shows that the Applicant's employer petitioned for him as an H-2B nonimmigrant worker and the pay stubs the Applicant provided show that although it did not always provide him with full-time employment, [REDACTED] employed him at an hourly rate that was higher than the one listed in his offer of employment. Moreover, the Applicant has pursued other employment in New York since his period of employment with [REDACTED] ended. The Applicant's brief one-sentence statement about threats of deportation lacks any probative details. He did not clarify the circumstances under which he was threatened with deportation and which individuals made the threats. Consequently, the Applicant has not demonstrated that he was the victim of a severe form of trafficking in persons, as required by section 101(a)(15)(T)(i)(I) of the Act.

#### B. Physical Presence in the United States on Account of Trafficking

The Applicant has not 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.

#### C. Assistance to Law Enforcement Investigation or Prosecution of Trafficking

The Applicant also has 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

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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 copies of a letter and electronic mails sent to Department of Justice (DOJ) on his 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. Although [REDACTED] appears to have been convicted of offenses related to trafficking in 2011, there is no evidence that his conviction was based on the Applicant's employment for [REDACTED]. 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 section 101(a)(15)(T)(i)(III) of the Act.

#### D. 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 his affidavits, the Applicant claimed he would suffer extreme hardship if forced to return to the Philippines because he believes his alleged traffickers in the Philippines would retaliate against him and his family. He asserted that it would be difficult to find work in the Philippines because he would be considered old and feared what his potential employers there would think of him for not having been successful in the United States. In response to the RFE, the Applicant suggested that he is hoping a criminal case will be brought against his alleged traffickers and that he 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 he was the victim of a severe form of human trafficking and he submitted no evidence to support his claims that difficulty in obtaining employment would cause him extreme hardship involving unusual and severe harm. The Applicant has also not shown that he 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 he endured while in the United States. However, the relevant evidence does not establish that he would suffer extreme hardship involving unusual and severe harm upon removal from the United States under the standard and

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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.

#### IV. 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 his eligibility for T nonimmigrant status. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.11(1)(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.

**ORDER:** The appeal is dismissed.

Cite as *Matter of P-T-Q-*, ID# 14610 (AAO Sept. 21, 2015)