



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

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

MATTER OF R-L-A-S-

DATE: OCT. 19, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Applicant seeks "T-1" nonimmigrant classification as a victim of human trafficking. *See* Immigration and Nationality Act (the Act) sections 101(a)(15)(T) and 214(o), 8 U.S.C. §§ 1101(a)(15)(T) and 1184(o). The T-1 classification affords nonimmigrant status to victims who assist authorities investigating or prosecuting the acts or perpetrators of trafficking.

The Director, Vermont Service Center, denied the application, concluding that the Applicant did not show that he was a victim of a severe form of trafficking in persons, and therefore did not meet any of the eligibility requirements.

The matter is now before us on appeal. On appeal, the Applicant submits a brief. The Applicant claims that he was a victim of a severe form of trafficking because he was defrauded into coming to the United States for the purpose of debt servitude, and that he meets the eligibility requirements.

Upon *de novo* review, we will dismiss the appeal.

I. 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:

- (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

(b)(6)

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(IV) [w]ould 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.¹

The burden of proof is on an applicant demonstrate eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010); 8 C.F.R. § 214.11(l)(2). An applicant may submit any evidence for us to consider in our *de novo* review; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. 8 C.F.R. § 214.11(l)(1).

II. PROCEDURAL HISTORY AND EVIDENCE OF RECORD

The Applicant is a citizen of Brazil who last entered the United States without inspection, admission, or parole. The Applicant subsequently filed the Form I-914, Application for T Nonimmigrant Status (T application), with U.S. Citizenship and Immigration Services (USCIS).

In his statements, the Applicant provided the following account of his claimed victimization. He recalled that after his visa application to the United States was denied, he met a man outside of the consulate who told the Applicant he could get him a permit to come to the United States if he paid him money for all the proper fees. The Applicant agreed and was taken to a house in the [REDACTED] where he was kept against his will. He indicated that one of the men keeping him in the house told him that he was going to be “sold to [R-V-²]”, that he was now “in debt to [R-V-] and belong[ed] to him” and that R-V- “owns” him now. He was told he could not leave, and was only fed once a day. Eventually he was put on a boat to the United States which was apprehended at sea by U.S. immigration authorities.

The Applicant stated that he was asked to testify against R-V- and his associates, and that he did. He indicated that people claiming to be associates of R-V- called his family and threatened him, both before and after he testified. Another of the witnesses told the Applicant that he has received threatening calls from R-V-'s associates. R-V- was subsequently convicted. The Applicant believes he will be killed if he returns to Brazil.

All the evidence in the record has been reviewed, even if all of the evidence is not discussed in the decision.

¹ 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).

² Initials used to protect individuals' identity.

III. ANALYSIS

Upon a full review of the record, the Applicant has not overcome the Director's grounds for denial. The appeal will be dismissed for the following reasons.

A. Victim of a Severe Form of Trafficking in Persons

The Applicant claims he was a victim of labor trafficking. On appeal, he asserts that he was defrauded into coming to the United States for the purpose of involuntary servitude, peonage, or debt bondage. To establish that he was a victim of a severe form of trafficking, the Applicant must show that R-V- and his associates 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 R-V- and his associates used fraud in order to subject him to debt bondage. 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).

Upon review of the evidence submitted below, the Applicant has not established by a preponderance of the evidence that R-V- or his associates trafficked him through fraud for the purpose of subjecting him to debt bondage. "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control 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). Although the Applicant states that he was told that he belonged to R-V-, he has not provided evidence that he pledged his personal services as a security for a debt, that the value of his services were not applied to the debt, or that the services were not limited and defined. The Applicant has not shown that R-V- or any of his associates intended to make or made him provide services to pay off his debt. Further, the evidence does not show that R-V- and his associates defrauded the Applicant for the purpose of involuntary servitude or peonage. Other than state generally that they did, the Applicant does not explain on appeal what the legal or factual basis is for such an argument. Ultimately, although the Applicant was defrauded by R-V- or his associates, and testified in the smuggling case against R-V-, he has not shown that the fraud was committed for the purpose of subjecting him to involuntary servitude, peonage, bondage, debt bondage, or slavery, as required under the regulation at 8 C.F.R. § 214.11(a). 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 in the Investigation or Prosecution of Acts 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).

Although the Applicant claimed that he testified against R-V-, the Applicant did not state in his affidavit whether or not he has reached out to the FBI requesting law enforcement certification as a victim of trafficking. As the record otherwise does not establish that the Applicant was the victim of a severe form of human trafficking, the Applicant has not met the assistance requirement of subsection 101(a)(15)(T)(i)(III) of the Act.

IV. CONCLUSION

In these proceedings, it is the Applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of R-L-A-S-*, ID# 9972 (AAO Oct. 19, 2016)