U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 9992187

Date: JUNE 29, 2021

Appeal of Vermont Service Center Decision

Form I-914, Application for T Nonimmigrant Status

The Applicant seeks T-1 nonimmigrant classification as a victim of human trafficking under 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 Director of the Vermont Service Center denied the Form I-914, Application for T Nonimmigrant Status (T application), concluding that the evidence did not establish that the Applicant is physically present in the United States on account of a severe form of trafficking in persons, or that he would suffer extreme hardship involving unusual and severe harm if removed from the United States. The matter is now before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 101(a)(15)(T)(i) of the Act provides that an applicant may be classified as a T-1 nonimmigrant if they: are or have been a victim of a severe form of trafficking in persons; are physically present in the United States on account of such trafficking; have complied with any reasonable requests for assistance in the investigation or prosecution of the trafficking; and would suffer extreme hardship involving unusual and severe harm upon removal from the United States. The term "severe form 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." 8 C.F.R. § 214.11(a).

Extreme hardship involving unusual and severe harm "may not be based solely upon current or future economic detriment, or the lack of, or disruption to, social or economic opportunities." 8 C.F.R. § 214.11(i)(1). The extreme hardship required for T-1 nonimmigrant status is a higher standard than the extreme hardship needed for suspension of deportation under former section 244(a)(1) of the Act. 8 C.F.R. § 214.11(i)(1). Unlike the former standard, the regulation for T-1 nonimmigrant status does not list financial impact and family ties as factors to be considered in evaluating whether removal would result in extreme hardship involving unusual and severe harm. *See id.*; *see also* 8 C.F.R. § 240.58(b) (2003) (listing factors considered in an evaluation of extreme hardship for former suspension of deportation).

The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.11(d)(5); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). Although petitioners may submit any relevant, credible evidence for us to consider, U.S. Citizenship and Immigration Services (USCIS) determines, in our sole discretion, the value of that evidence. 8 C.F.R. § 214.11(d)(5).

II. ANALYSIS

The Director's decision described the Applicant's claim that he was the victim of a severe form of trafficking in persons which we adopt and incorporate here. Briefly, the Applicant describes paying an individual, Ma-,[1] in India in order to come to the United States using a J-1 visa. The Applicant contends that after arriving in the United States in 2009, he was asked to pay more money, was housed in a motel with three others, and was put to work at a laundromat for $8 per hour without overtime pay which was not enough to cover his basic expenses. He states that Ma- was threatening, forced his parents to sign a contract for their property in India, and took away other people's passports. The Petitioner explains that after approximately two months, he was able to escape. He maintains he could not afford to return to India and "remember[s] hearing that [Ma-] threatened people's famil[ies] in India" and that "[h]earing about that made [him] nervous and scared that [Ma-] was going to go to [his] parents' house and demand money from them, too." He contends that if he returned to India, it would be difficult to find work, he would not make a lot of money, and he would not feel safe there, particularly considering the police in India are corrupt. Because of his experience with Ma-, he claims he has experienced depression, nightmares, and insomnia, and has lost weight and lost hair. He states that even though Ma- hasn't contacted him or his family since his escape, he does not doubt Ma-'s ability to hurt anyone. The Applicant explains that he is in therapy now and would be stigmatized in India where mental illness is seen as a sign of weakness. He states that he came to the United States when he was 23 years old and is now used to living here. He further states that since he has spent more than a decade away from his community in India, he does not understand how he will fit into that society or culture again.

After a careful review of the entire record, including new evidence the Applicant submits on appeal,[2] we do not find that the Applicant has met his burden of establishing that he will suffer extreme hardship involving unusual and severe harm upon removal from the United States, as required. Section 101(a)(15)(T)(i)(IV) of the Act. The regulations include extreme hardship factors, such as age, personal circumstances, physical or psychological issues necessitating medical or psychological care not reasonably available in the foreign country, the likelihood of re-victimization or harm by the trafficker(s), and the applicant's individual safety considering the foreign country's civil unrest or armed conflict. *See* 8 C.F.R. § 214.11(i)(2). In this case, the Applicant escaped from Ma- 12 years ago and neither he nor his parents have had any further interactions with Ma-. Although we do not seek to minimize the Applicant's stated fears, considering that more than a decade has passed without any contact, the record does not show that the Applicant or his family are likely to be re-victimized or harmed by Ma- or anyone acting on his behalf. In addition, we acknowledge that the Applicant has been diagnosed with post-traumatic stress disorder and major depressive disorder, and that he has attended six

[1] We use the first two letters of the individual's name to protect privacy.

[2] We note that although the Applicant states on page 6 of his appeal brief that he is submitting a letter from his brother-in-law, the record does not include this letter which is also not listed in the Table of Contents.

counseling sessions since July of 2019. We also acknowledge his social worker's assertion that he cannot get the psychological care he needs in India and that the record contains articles addressing the stigma surrounding mental illness in India. Nonetheless, considering the record as a whole, we do not find that the Applicant has demonstrated that his removal would cause extreme hardship involving unusual and severe harm. The Applicant is currently 35 years old and has had stable employment as a cashier in California since 2011. The record does not show that the Applicant's mental health issues have affected his ability to work or carry out other activities, that he requires assistance with daily life, or that psychological care is not reasonably available in India even if mental health care is more stigmatized and less accessible compared to the United States. The record, in its entirety, is insufficient to show that the Applicant's return to India, where he lived until he was 23 years old and where both of his parents continue to reside, would cause him hardship that is unusual and severe, rising to the level of extreme hardship.

Accordingly, the Applicant, who bears the burden of proof in these proceedings, has not demonstrated that he 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) and as required by section 101(a)(15)(T)(i)(IV) of the Act. The T application will therefore remain denied.[3]

ORDER: The appeal is dismissed.

[3] As noted above, the Director also concluded the Applicant did not establish that he is physically present in the United States on account of having been a victim of trafficking, a separate basis for denial of the application. We need not reach the issue of physical presence and, therefore, reserve it. Our reservation of this issue is not a stipulation that the Applicant overcame this alternate ground of denial and should not be construed as such. Rather, there is no constructive purpose to addressing it because it cannot change the outcome of the appeal. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015).