



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

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

In Re: 21122217

Date: APR. 21, 2022

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 sections 101(a)(15)(T) and 214(o) of the Immigration and Nationality Act (the Act), 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 Applicant did not establish that he is physically present in the United States on account of a severe form of trafficking in persons. On appeal, the Applicant asserts his eligibility and submits a brief, additional evidence, and previously submitted evidence.

We review the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will remand this matter for further proceedings consistent with this decision.

I. LAW

Section 101(a)(15)(T)(i) of the Act provides that applicants 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. See also 8 C.F.R. §§ 214.11(b)(1)-(4).

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).

The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 18 U.S.C. § 1361; 8 C.F.R. § 214.11(d)(5); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). An applicant may submit any credible, relevant evidence for us to consider in our *de novo* review; however, we determine, in our sole discretion, the value of that evidence. 8 C.F.R. § 214.11(d)(5).

II. ANALYSIS

The Applicant is a native and citizen of India who first entered the United States in May 2005 as a B-2 nonimmigrant visitor. He filed his T application in February 2020 on the basis that he was a victim of labor trafficking. The Director denied the T application after concluding that he had not established that he is physically present in the United States on account of such trafficking.

A. The Applicant's Trafficking Claim

In his written statement below, the Applicant indicated he migrated from India to Jamaica with his spouse, J-,¹ in September 2000. The Applicant described being recruited by M- and M-L-, a married U.S. citizen couple with a vacation home in Jamaica, to come to the United States to work for them in 2005. He stated that they met and became friends with the couple because they were frequent customers at the gift shops that he and J- owned. The Applicant stated that after he and J- had to sell their gift shops in 2004 due to a downturn in the Jamaican tourism industry, they decided to come to the United States with their young daughter using visitor visas based on assurances from M- and M-L- that the couple would help them obtain lawful status, work authorization, and employment here. With respect to his claim that he was trafficked, the Applicant states that, after arriving in Florida with his spouse and young daughter in May 2005, M- and M-L- instructed them to lie to U.S. immigration authorities when they arrived about where they were going to stay in the United States; promised to apply for work permits for them but did not follow through on their promises; asked and later demanded that the Applicant provide them with progressively greater levels of labor and services, including through work at M-'s pawn shop and their home; confiscated their passports to keep the passports "safe"; refused to return their passports when requested; became angry and aggressive when the Applicant expressed a desire to stop working for M- and return to Jamaica with his family; threatened to ensure J- would never be happy again if she and the Applicant returned to Jamaica; constantly monitored their whereabouts, using other people in their community to report on them; did not pay the Applicant a fixed wage for his work; provided the Applicant and his family only a small weekly grocery stipend; forced them to rent an apartment despite their lack of funds to do so and their desire to return to Jamaica; refused to allow them to pay their own rent and utility bills; required them to give all their bills to M- to pay on their behalf; and, inspected the call logs of their phone bills and interrogated them about any calls they made to unknown numbers. The Applicant indicated that, despite their desire to leave, he had to keep working for M- because M- and M-L- had their passports. He explained that they were terrified of reporting M- and M-L- to the authorities because M- was a retired police officer, had many friends and connections in law enforcement, was physically larger than the Applicant, owned many guns which he showed off to them, and was involved in criminal activities relating to some kind of illegal drug business in Jamaica that the Applicant learned about while working for him. The Applicant also described experiencing various medical problems caused by the constant anxiety and fear he felt while working for M- and M-L-. Additionally, he stated that during this time his daughter had many ear infections for which he and J- could not obtain appropriate treatment because M- and M-L- controlled their finances and refused to help them pay medical bills.

The Applicant stated that he and his family were able to escape their trafficking situation because M- finally gave them back their passports and immigration documents. He indicated that M- only

¹ Initials used to protect individuals' identities.

gave them their documents back after becoming irritated with them when they tried to ask him about a request for evidence (RFE) they had received related to applications M- had filed on their behalf to extend their status as B-2 visitors. The Applicant stated that M- refused to help them respond to the RFE, gave them their documents, and told them to take care of it themselves. With the help of D-, an Indian man who owned a nearby gas station, the Applicant detailed how after getting their passports back, they moved to another part of Florida without telling M-. However, after moving, the Applicant recounted that D- called and told them that M- had visited D-'s business, aggressively demanded to know where the Applicant and his family were, and warned D- that, if the Applicant and his family tried to return to Jamaica, he would make sure that they had trouble at the airport. The Applicant stated he and J- later decided to move even further away because they feared that M- and M-L- had found them after an acquaintance of M- recognized them. The Applicant described moving several times afterwards, including to North Carolina, Georgia, and Massachusetts, while struggling to obtain stable employment, legal status, and safety. He affirmed that he and J- feared returning to Jamaica because of M-'s connections there. He likewise asserted that they could not return to India because there they would be unable to access the resources they needed to overcome the effects of their trafficking experience, which included psychological and medical services that they had already begun accessing. The Applicant's written statements also described the past and ongoing harm he asserts that he and his family suffered during and as a result of their experiences with M- and M-L-, which harm included various psychological and medical problems.

In addition to the Applicant's statement, the record before the Director included copies of correspondence with law enforcement officials in Florida reporting his experience, medical records for himself and his family relating to their ongoing health problems, letters and correspondence relating to his ongoing mental health treatment, and his children's school records.

B. Physical Presence on Account of Trafficking in Persons

The record on appeal overcomes the basis for the Director's denial as it demonstrates that the Applicant is physically present in the United States on account of having been a victim of a severe form of trafficking in persons, as required by section 101(a)(15)(T)(i)(II) of the Act.

The physical presence requirement reaches applicants who at the time of filing: (i) are currently being subjected to trafficking; (ii) were liberated from trafficking by a law enforcement agency (LEA); (iii) escaped from trafficking before an LEA was involved; (iv) were subject to trafficking in the past and their continuing presence in the United States is directly related to such trafficking; or (v) were allowed to enter the United States to participate in investigative or judicial processes related to the trafficking. 8 C.F.R. § 214.11(g)(1)(i)-(v). In considering the evidence of the physical presence requirement, USCIS may consider applicants' responses to when they escaped their traffickers, what activities they have since undertaken to deal with the consequences of having been trafficked, and their ability to leave the United States. 8 C.F.R. § 214.11(g)(4).

On appeal, the Applicant contends that the Director erred by concluding that, although he suffered psychological trauma from his trafficking experience, he was no longer physically present in the United States on account of trafficking because the record did not demonstrate that the psychological harm had limited his ability to find a job, earn an income, impacted his day-to-day life, or prevented him from returning to his home country or any other country. The Applicant asserts that contrary to

the Director's determination, the record demonstrates that he satisfies the physical presence requirement under 8 C.F.R. § 214.11(g)(1)(iv) because his continuing presence in the United States is directly related to his past trafficking. He states that although his trafficking situation ended in 2006, he has been unable to depart the United States since escaping from his traffickers due to the ongoing emotional trauma, physical illnesses, and financial hardship resulting from his trafficking experience. In particular, the Applicant cites to having been diagnosed with a number of mental health conditions, including Post-Traumatic Stress Disorder (PTSD) and Major Depressive Disorder, stemming from his trafficking experience.

The Applicant has demonstrated on appeal that he continues to suffer ongoing psychological harm directly related to his past trafficking such that his continuing presence in the United States is directly related to the trafficking, consistent with 8 C.F.R. § 214.11(g)(1)(iv). In his written statement before the Director, the Applicant described how in the years after his trafficking experience he was frequently on edge and unable to calm down. He also described feeling paranoid, nervous around law enforcement officers, humiliated, like he could never fully trust anyone, and "mentally messed up." He asserted that he struggled to find stable work after being trafficked and described changing jobs several times because of the effects of his psychological trauma, the fear of M- locating him, and his lack of lawful immigration status. Additionally, the record before the Director included copies of various medical records, including multiple after-visit summary records from doctors at [REDACTED] [REDACTED] from November and December 2020 indicating that the Applicant was diagnosed with and being treated for bipolar disorder, unspecified psychosis, and PTSD with dissociative symptoms stemming from and associated with his trafficking experience. According to the records, the Applicant's symptoms included episodes of aggression, difficulty remembering events, general distrust of others, intrusive memories, flashbacks, nightmares, negative cognition, paranoia, auditory hallucinations, frequent crying spells, fatigue, decreased concentration, anxiety, frequent suicidal thoughts, and guilt. The records note that the Applicant was prescribed a variety of medications and was receiving counseling. Similarly, after-visit summaries from [REDACTED] were also submitted indicating the Applicant's spouse was diagnosed with PTSD, depression, and anxiety with symptoms stemming from the trafficking experience. The Applicant also submitted copies of correspondence from a Licensed Marriage and Family Therapist with the [REDACTED] Family Justice Center [REDACTED] indicating that the Applicant and his spouse had been receiving mental health services from that organization since October 2020. A February 2021 letter from the therapist indicated that, due to the nature and severity of the Applicant and his spouse's mental health status, [REDACTED] approved the Applicant and J- for an extended PTSD treatment plan that included 32 counseling sessions, of which they had completed 17 sessions.

Additionally, on appeal, the Applicant submits an updated personal statement and statements from his spouse and daughter; a December 2021 psychological evaluation of the Applicant; a client status report from the [REDACTED] relating to the Applicant's and J-'s PTSD treatment; healthcare records for the Applicant's daughter indicating she has also been receiving counseling services and describing continued treatment of her hearing problems; tax returns from 2018 to 2020; and, publications relating to country conditions and trafficking in India. The appeal statements provide greater detail regarding coercive actions taken by the Applicant's traffickers against him and J-² and reaffirm that his mental

² For example, in his statement on appeal the Applicant states that while "acting very scary," M- threatened to harm the

health conditions have significantly impacted his daily life and ability to interact with others. The psychological evaluation submitted on appeal diagnoses the Applicant with Major Depressive Disorder and PTSD. The evaluation affirms that the Applicant has experienced a variety of depressive and trauma symptoms on an intermittent basis for the past 16 years as a result of the trauma and abuse he endured during his trafficking. The report states that the “intensity of both his depressive and anxious symptoms and the [] PTSD have placed significant strains on his . . . daily life activities and functioning,” and opines that his “trauma and abuse [] triggered his psychological symptoms [which led] to his fear of returning to India and having his symptoms retriggered again.” The report further opines that returning to either Jamaica or India could exasperate or worsen his symptoms. Per the [] report, the Applicant’s and his spouse’s PTSD symptoms have impacted their social, emotional, community, and occupational functioning. The report confirms that they received individual and family therapy treatments between October 2020 and June 2021 and that afterward the [] referred them to additional services for ongoing individual therapy.

Thus, the record, including the statements from the Applicant and the mental health care records submitted below and on appeal, demonstrate by a preponderance of the evidence that the Applicant suffered, and has continued to suffer, serious physical and psychological harm as a result of his trafficking experience. Therefore, the record as a whole shows that the Applicant’s continuing physical presence is directly related to his past trafficking, as described at 8 C.F.R. § 214.11(g)(1)(iv). Accordingly, the Applicant has demonstrated that his physical presence in the United States is on account of having been the victim of a severe form of trafficking in persons, as section 101(a)(15)(T)(i) of the Act requires.

III. CONCLUSION

The Applicant has overcome the basis for the Director’s denial as he has demonstrated that he is physically present in the United States on account of having been a victim of a severe form of trafficking in persons. We will therefore remand this matter to the Director for a determination in the first instance of whether the Applicant meets the remaining eligibility criteria for T nonimmigrant classification under section 101(a)(15)(T) of the Act.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

Applicant if he did not comply with M-’s demands. Similarly, the Applicant states that M- threatened him on multiple occasions that if he ever tried to leave and stop working in M-’s shop, he would report the Applicant to the authorities for his involvement in an illegal firearm transaction and for credit card theft (fraud), in which M- himself had originally coerced the Applicant into participating. In their statements, he and J- also indicate that M- sexually harassed and assaulted J- on multiple occasions by inappropriately commenting on her body and kissing and touching her without her permission.