



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

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

In Re: 13088457

Date: FEB. 03, 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. sections 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), and the matter is 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 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 (trafficking); 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 trafficking; and would suffer extreme hardship involving unusual and severe harm upon removal from the United States. *See also* 8 C.F.R. §§ 14.11(b)(1)-(4).

Applicants seeking to demonstrate that they are victims of trafficking must show: (1) that they were recruited, harbored, transported, provided, or obtained for their labor or services, (2) through the use of force, fraud, or coercion, (3) for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. 22 U.S.C. § 7102(11); 8 C.F.R. § 214.11(a) (defining the term “severe forms of trafficking in persons”). Thus, an applicant must show not only the particular “means” used (force, fraud, or coercion), but also that such means was used for a particular “end” – namely for the purpose of subjecting the applicant to involuntary servitude, peonage, or debt bondage.

The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. 8 C.F.R. § 214.11(d)(5); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). 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).

**II. ANALYSIS**

The record reflects that the Applicant entered the United States in 2002, and in 2009 and 2010 worked for an embroidery factory, [REDACTED], where she claims she was victim of a severe form of trafficking

and escaped before the involvement of a law enforcement agency that investigated the company. With Form I-914 the Applicant submitted a Supplement B, signed by a certifying official of the Department of Labor/Wage and Hour Division, that identified her as victim of trafficking; an attachment to the Supplement B that surmised she was obtained through coercion for purposes of subjecting her to involuntary servitude; personal affidavits; and two psychological evaluations that show the Applicant diagnosed with adjustment disorder with mixed anxiety and depressed mood.

In denying the application, the Director concluded that the Applicant did not demonstrate that at the time of filing the T application she was physically present in the United States on account of trafficking. We issued the Applicant a notice of intent to dismiss (NOID) informing her that a review of the record did not establish that she was a victim of trafficking, a predicate requirement to establishing the remaining eligibility criteria for T nonimmigrant classification under section 101(a)(15)(T)(i) of the Act, including the physical presence requirement.

In her affidavits below, the Applicant claimed a law enforcement agency determined she and other employees were subjected to involuntary servitude through coercion. The Applicant contended that she received no training, tolerated humiliation and exploitation, and sometimes worked 12 hours or more a day with a 30-minute break and was told to only go to the bathroom when necessary. The Applicant stated that supervisors screamed at employees to work faster, threatened to hire other workers, and told employees to step up their work or be sent back to Mexico. She recounted that she once had to beg a supervisor not to send her home when she arrived late and described a supervisor insulting her work and telling her that if she could not keep up to find another job.

The Applicant recalled that during the first two or three months of work she was paid, but then banks began declining paychecks for insufficient funds and later workers received no pay at all. She stated that managers promised employees they would be paid when customers paid, but then blamed employees for not completing work on time, and told employees that if they left, they would receive no back pay. The Applicant maintained that although some employees stopped working, she continued because she thought she would eventually get paid, had to provide for her children, and had promised to pay back money borrowed from family. The Applicant claimed that she stopped working when her pay was 10 checks behind and eventually got some, though not all, of the funds she had earned.

In the NOID we explained that coercion is defined in pertinent part 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). We noted that servitude is defined as “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 or another person would suffer serious harm or physical restraint...” and that “[i]nvoluntary servitude includes a condition of servitude in which the victim is forced to work for the defendant by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through the law or the legal process.” *Id.*

We indicated in the NOID that although the Applicant contended supervisors pressured and insulted her, she did not describe any threats of harm or physical restraint against her or other workers. We noted the Applicant’s claims that a supervisor insulted her work and told her to find another job if she

could not keep up, and that other employees stopped working after not receiving pay. We observed that although she asserted that a supervisor told employees they would be sent back to Mexico, the Applicant did not suggest that the statement was a threat to continue a condition of servitude. The Applicant stated that she continued working because of the promise of being paid later as she needed to support her family, but she then chose to leave the position after not receiving pay for several months. The record does not show that the Applicant was in any way forced to remain in her position or was coerced to do so through threats of harm or abuse of the legal process. Therefore, the record did not demonstrate that [ ] obtained the Applicant through coercion for involuntary servitude.

In response to the NOID, the Applicant submits a brief along with an updated personal affidavit and affidavits from former coworkers. The Applicant argues that she was victim of labor trafficking as [ ] violated labor, immigration, and tax laws; used immigration status to verbally and emotionally abuse employees in financial need; and coerced her to work with a promise to be paid for her work. She asserts that [ ] coerced undocumented workers into involuntary servitude with a pattern of lies, manipulation, and threats to deport them to Mexico.

In her updated declaration the Applicant reiterates that managers verbally and emotionally abused workers and threatened deportation. The Applicant contends that she felt trapped as the company owed her back wages and she wanted to leave but could not because they were promising to pay her. She also claims the company reported her wages to the IRS so she had to pay taxes. The Applicant maintains that as an undocumented person she lived in fear and the company took advantage of her. She contends that [ ] was scheming with a pattern of not paying employees and used immigration law to continue fraud and manipulation. She provided affidavits from former coworkers making the same contention that [ ] withheld pay, promised workers they would be paid later, and was aware of workers' immigration status.

We recognize the difficult circumstances where the Applicant felt humiliation from her treatment by managers and where she believed she needed to continue working in hopes of receiving owed back pay. However, as explained in our NOID, a review of the record does not demonstrate that the Applicant was coerced into involuntary servitude as those terms are defined by regulation in order to establish that she was victim of severe form of trafficking in persons. Notwithstanding that the Form I-914, Supplement B, identified the Applicant as a victim of trafficking, other evidence including the descriptions of conditions provided by her affidavits and those of coworkers, does not support that assertion. The Applicant has therefore not established that she is the victim of a severe form of trafficking in persons as required by section 101(a)(15)(T)(i) of the Act.

**ORDER:** The appeal is dismissed.