



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

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

In Re: 12589337

Date: MAR. 22, 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 Vermont Service Center Director denied the Form I-914, Application for T Nonimmigrant Status (T application). The Applicant filed an appeal and submitted a brief, and we subsequently issued a notice of intent to dismiss (NOID) the appeal to which the Applicant timely responded. The Applicant bears the burden of demonstrating 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). 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 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. § 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). An applicant may submit any credible evidence for us to consider in our *de novo* review; however, we determine, in our sole discretion, the weight to give that evidence. 8 C.F.R. § 214.11(d)(5).

II. ANALYSIS

The Applicant, a native and citizen of the Philippines, last entered the United States in 2007 on an H-2B visa as a temporary non-agricultural worker. In September 2018, the Applicant filed a T application on the basis that he was a victim of labor trafficking through the use of fraud for the

purpose of subjection to involuntary servitude and debt bondage while working for a company in the United States. The Director denied the T application concluding that the record did not establish that he was physically present in the United States on account of having been a victim of a severe form of trafficking.

The Director's decision determined that the Applicant did not meet the physical presence requirement without making a determination that the Applicant met the definition of a victim of a severe form of trafficking. On appeal, we issued a NOID within which we explained that the record as a whole, did not demonstrate that the Applicant was a victim of labor trafficking, as he claimed. *See* 8 C.F.R. § 214.11(a) (defining trafficking). In response to the NOID, the Applicant submits another affidavit, his medical records, and receipts for payment of a loan.

A. The Applicant's Trafficking Claim

In his written statements before the Director, on appeal, and in response to our NOID, the Applicant explained that while in the Philippines he discovered an agency, [REDACTED], that worked for [REDACTED] located in the United States to recruit workers in 2007. He said he interviewed with [REDACTED] and signed a contract to work in the United States. As part of the contract, the Applicant explained that he paid several fees, including a medical exam fee, a placement fee, an agency fee, a broker fee, a visa fee, an airfare and government fees, totaling approximately \$5,500. The Applicant stated that he did not have the money to pay these fees. He explained that [REDACTED] was "forcing" him to use the services of a lender affiliated with [REDACTED] in order for his working visa to be valid, but because that lender charged a high interest, his mother gave him part of her savings and borrowed \$4,500 at a lower interest from another lender she found to pay the Applicant's fees. He said his family went into debt to help him move to the United States and work.

The Applicant stated that based on the promises the [REDACTED] representatives made to him, he believed he could borrow the money and "easily" pay it back once he started working in the United States. The Applicant said he was told he would earn \$8 an hour and work a 40 hour week, and he could find additional work to supplement his income. He also said that he was promised verbally that his visa would be renewed for as long as he wanted but he was not informed that there was a legal time limit an individual could hold H-2B status.

The Applicant stated that he interviewed at the U.S. Embassy and his visa application was approved. He explained that [REDACTED] withheld his passport until he paid all the required fees and told him that if he did not pay, the visa would be invalid. The Applicant stated that he entered the United States in H-2B status in November 2007 to work cleaning guest rooms in a casino in Nevada, and his H-2B visa was valid until July 31, 2008. He recalled that once he started working at the casino, his working situation was not the same as described when he was in the Philippines or as outlined in his contract. For example, the Applicant stated that his contract indicated that he would receive food, transportation, and housing but upon arrival to the United States, he realized these items were not free. Instead, the Applicant lived with seven people in a two bedroom apartment and had to pay for rent and utilities. The Applicant said his living conditions were difficult since seven people shared one full bathroom and one half bathroom and the apartment was small and unfurnished. He also said that he was promised transportation to his worksite but no transportation was provided and he walked to work in freezing weather. He also said his contract indicated he would receive food but he only was given one meal of soup and salad when he was working. He stated that sometimes he and other workers were

invited to dinner at the home of a lovely couple in the area so they could save money, but otherwise he often went hungry. The Applicant explained that after paying for housing, transportation, food, taxes and other expenses, he was only left with \$50 to \$100 a month. He stated that he therefore struggled to send money home and repay his loans and in fact, had to borrow more money from his parents. Due to his large debt, the Applicant stated that he felt pressure to work.

The Applicant also stated that his employment contract with [] was breached because although he was paid \$8 per hour as promised, he was given only 24 to 32 hours a week of work rather than the 40 hours stated in the contract. He said the contract also mentioned overtime payments but he did not have many opportunities to receive overtime and his employer used to force the workers to take time off because there was not enough business. In addition, he said the contract stated that the duration of his visa was to be 10 months and renewable but instead, his visa was valid for only eight months and was not renewed.

The Applicant recalled one incident when a few co-workers gathered at a fast-food restaurant and one of the individuals complained about the lack of enough work hours, the inability to get a second job, and the excessive costs for housing and other necessities. The Applicant stated that R-, a representative of [], was also present at that time and responded that they should not complain or else their visas can be cancelled and they would be deported. The Applicant also said that R- told them they should be thankful that the company brought them to the United States since other workers are dying to come to the United States and that they are easily replaceable. In his response to the NOID, the Applicant clarified R-'s relationship to [] explaining that he was one of the owners of [] and a member of its board and that he was "like the CEO" and a "big boss." The Applicant said he was afraid of him because he was the boss, and he was scared of being deported. The Applicant also stated that several co-workers were related to the recruiters and he was scared his complaints would get back to the company.

The Applicant stated that in March 2008, a representative of [] demanded payment from him to have his contract with his U.S. employer renewed. The Applicant explained that the representative initially demanded \$1200 but eventually dropped the fee to \$100 or "whatever you have" as a down payment. The Applicant said he was told by other workers that this was a shakedown. The Applicant explained that during that same time, several recruiters from other companies contacted him regarding a visa renewal and a transfer to another job. The Applicant said he paid two representatives \$100 each for a visa renewal but never received it and never was refunded that amount.

The Applicant explained that his employment with his U.S. employer ended abruptly in March 2008. He stated that the [] representative told him that his employment contract had ended and his visa was not renewed, and he was therefore required to return to the Philippines or be deported if he refused to return. The Applicant explained that once he realized his visa would not be renewed, he searched for another job to help him pay back the loan his parents took out to help him. The Applicant said he moved to California and started working as caregiver for mentally ill patients at a facility where he still works and where he maintains he is being exploited by being paid a wage far lower than the minimum wage for being available to work 24 hours a day. The Applicant recalled that he was attending a wedding in 2017 when he first became aware of the T visa application through a friend. He said that with the help of counsel, he later reported the labor trafficking to the U.S. Department of Labor (DOL) and is willing to help in the investigation.

The Applicant further explained that even after escaping the traffickers, his life was wrought with financial instability, fear, depression, isolation and uncertainty. He stated that he fell victim to another

immigration scam by a law firm and incurred additional debt owed to his uncle. The Applicant stated that he is also still repaying the loan his mother took out in the Philippines to pay [] his recruitment fees. He said he feels terrible guilt because his mother used her life savings to help him pay the recruitment fees and is facing demands for repayment from the creditors, including for the initial loan for the Applicant. He also said his parents, who are retired, are in danger of losing their home because they fell behind mortgage payments. The Applicant indicated that he and his family's outstanding debts have now ballooned to over \$30,000. Additionally, since his escape from the traffickers, the Applicant stated that he developed significant health issues such as hypertension, high cholesterol, stress, severe depression and borderline diabetes. Further, the Applicant stated that if he returned to the Philippines, he would not be able to find a job that can pay back his loan and support himself and his family. The Applicant also said he fears returning home because he heard from others that [] and [] were "looking for us," especially the individuals who came forward with the complaint against [] that eventually led the company to lose its business license in the Philippines.

The record also contains a Form I-914 Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Supplement B), signed and certified by an Acting Regional Administrator (certifying official) of DOL, Wage and Hour Division. The Supplement B was accompanied by an attachment providing a description of the Applicant's trafficking claim and the conditions under which he worked when he first entered the United States in H-2B status. The certifying official found that the Applicant was a victim of trafficking, stating that he was lured into working in the United States by making fraudulent promises related to his work, and induced to go into debt. The official concluded that the Applicant was subjected to a scheme involving abuse of the legal process by way of deportation that served the purpose of compelling the Applicant to servitude for his employer, [] and []. In addition, the attachment stated that the Applicant was "confined" to his apartment and had to report if he ventured far from the apartment and that he was unable to move out of the apartment.

The Applicant also submitted, among other evidence, an email from his therapist; the employment contract between the Applicant and []; a letter of agreement between the Applicant's mother and a lender containing a loan repayment plan for the money borrowed to pay the Applicant's recruitment fees to []; and articles discussing labor abuses made by [] and []. As noted, in response to the NOID, the Applicant submits a statement that reiterated his earlier statements regarding his trafficking claim and provided a few more details. In addition, the Applicant submits pictures of the medicine he takes for his daily migraines and his anxiety, depression and PTSD. He also submits notes from sessions with a therapist, and receipts for payments made in 2020 and 2021 from the Applicant's mother to the creditor for the original loan taken out to help the Applicant pay his recruiting fees.

B. The Applicant Is Not the Victim of a Severe Form of Trafficking in Persons

Although the Director did not deny the T application on this ground, our *de novo* review of the record indicates that the Applicant has not established that he was a victim of a severe form of trafficking. Applicants seeking to demonstrate that they are victims of trafficking must show: (1) 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”).¹

The Applicant asserts that he was recruited, obtained, and harbored through fraud and coercion for the purpose of subjecting him to involuntary servitude, peonage, and debt bondage. The Applicant states that the Director ignored the Supplement B which he maintains documents how [] and [] induced the Applicant to go into debt by charging high recruitment fees and representing that he would receive sufficient wages in the United States to pay off his debt, and later preyed on his vulnerability and need to support his family and pay back the loan. The Applicant further states that the Supplement B indicated that he was coerced into enduring terrible working and living conditions and had been threatened with deportation.

As an initial matter, we acknowledge the Supplement B by the DOL finding that the Applicant is a victim of trafficking as defined at 8 C.F.R. § 214.11(a). However, a Supplement B is optional evidence that USCIS will consider in determining whether an applicant is the victim of trafficking, and it does not lead to automatic approval of a T application. 8 C.F.R. § 214.11(d)(3)(i); *see also* 8 C.F.R. § 214.11(d)(5) (stating that while T applicants may submit any credible evidence for consideration, USCIS, in its sole discretion, determines the evidentiary value of the evidence). Although a Supplement B reflects law enforcement involvement or investigation into an applicant’s claimed trafficking, USCIS, not the law enforcement agency, determines whether an applicant is the victim of a severe form of trafficking in persons under the Act and corresponding regulations. 8 C.F.R. § 214.11(d)(3)(i). Here, while our review of the record, including the Applicant’s statements and the Supplement B, indicates that the Applicant was recruited through deliberate misrepresentations, the Applicant has not demonstrated that [] [] or its associates fraudulently recruited him for the purpose of subjecting him to debt bondage, involuntary servitude, and peonage, as he asserted below and on appeal.

1. Debt Bondage

As used in section 101(a)(15)(T)(i) of the Act, the term “debt bondage” is defined, in pertinent part, as:

[T]he 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). To satisfy this definition, an applicant must demonstrate that: (1) their personal services were a security for debt; and (2) the value of those services was not applied toward the liquidation of debt; or (3) the length and nature of those services were not limited and defined. *Id.*

On appeal, the Applicant claims that his traffickers subjected him to debt bondage by luring him in the Philippines through fraudulent promises of a well-paying job with ample benefits while charging excessive fees that led his family to borrow money and assume a higher debt than he had anticipated,

¹ The definition of a severe form of trafficking also includes commercial sex trafficking, which does not apply in this case. 8 C.F.R. § 214.11(a).

and by charging him for previously undisclosed costs, including food, transportation and housing, once he was working in the United States so that he was unable to pay his debt back. He maintains that his family in the Philippines now has “snowballing trafficking debt” totaling over \$30,000 U.S. “that can be traced back to” the circumstances of his recruitment to the United States. In response to our NOID, he again asserts that [] “forced” him to take out the loan to pay their fees and induced him into debt, by refusing to return his passport until the fees were paid.

Upon *de novo* review, the evidence in this case does not establish that [] [], or its associates recruited or obtained the Applicant for the purpose of subjecting him to debt bondage, consistent with the regulatory definition of trafficking. We recognize that the Applicant has outstanding debt, including from loans his mother obtained to cover his recruitment costs. However, the record does not demonstrate that the Applicant was indebted to [] [] or its associates, or that he pledged his personal services as a security for that debt. Rather, the record reflects that the Applicant paid [] the full placement and related fees in order to obtain a job in the United States and he did so prior to coming to the United States. Additionally, although we acknowledge the Applicant’s assertion that he was forced to take out a loan to pay the recruitment fees because [] told him they would hold onto his passport until the fees were paid, his statements and other evidence reflect that [] did not force him to use the lender they recommended in the Philippines, and instead, his mother secured a loan through an outside lender rather than from [] [] or its associates. The record also does not show that they were aware of his outstanding debt. Consequently, while we acknowledge the Applicant’s assertions that [] used fraudulent and coercive tactics in recruiting him that induced him to incur debt to pay their recruitment fees in exchange for employment in the United States, he has not shown that [] or its affiliates in the United States did so for the purpose of subjecting him to debt bondage. Moreover, as stated, the Applicant did not allege that he pledged or was forced to pledge his services or labor as security for any debt, and to the contrary, he was paid for his work, was given less work hours than promised, and was released from his employment with his U.S. employer when his H-2B visa and employment contract expired. The Applicant therefore has not demonstrated that his claimed traffickers subjected or intended to subject him to debt bondage.

2. Involuntary Servitude and Peonage

The evidence also does not show that [] and [] or its associates recruited, obtained, or harbored the Applicant for the purpose of subjecting him to involuntary servitude or peonage under 8 C.F.R. § 214.11(a). The term “involuntary servitude” is defined 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 or another person would suffer serious harm or physical restraint; or a condition of servitude induced by the abuse or threatened abuse of legal process. Involuntary 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. This definition encompasses those cases in which the defendant holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion.

8 C.F.R. § 214.11(a). The term “peonage,” as used in section 101(a)(15)(T)(i) of the Act, means “a status or condition of involuntary servitude based upon real or alleged indebtedness.” *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. *Black’s Law Dictionary* (B.A. Garner, ed.) (11th ed. 2019). Slavery is defined as a “situation in which one person has absolute power over the life, fortune, and liberty of another.” *Id.*

The Applicant asserted that he is a victim of labor trafficking by [] and its affiliate in the United States, IRS, because they subjected him to involuntary servitude and peonage through a scheme, plan, and pattern intended to make him believe that if he did not continue to work for the U.S. employer for whom he was recruited, he would suffer serious harm, namely being unable to pay off debt he incurred as a result of the recruitment process. As part of this scheme, the Applicant asserts he was made to pay additional expenses that were not previously disclosed to him, including housing, transportation and food, so that his income after the expenses were deducted were insufficient to pay his debt. The Supplement B includes a similar argument.

The record does not establish that [], [], or its associates placed or intended to place the Applicant in a condition of servitude, a prerequisite to establishing involuntary servitude and peonage. 8 C.F.R. § 214.11(a). Although the Applicant was not afforded overtime or the number of work hours per week as promised in his employment contract, the record shows that the Applicant was financially compensated for his work at the promised hourly salary. The Applicant also does not allege that [] or [] used forced; threats of physical restraint, physical injury, or serious harm; or abused (or threatened abuse of) legal process in order to coerce the Applicant to perform labor or otherwise continue his U.S. employment in a condition of servitude. *See id.* (defining “involuntary servitude” and “peonage”). Rather, the record reflects that the Applicant was given fewer work hours than he wished and was released from his employment with his U.S. employer. We acknowledge that the Applicant asserted below and in response to our NOID that other coworkers told him they were being monitored and the Supplement B states that the Applicant was confined to his residence. However, his statements do not show that his freedom was restricted and reflect that he freely went out, including to the home of a couple in the area, a fast-food restaurant with co-workers, and to attend a meeting of “brokers” to discuss the renewal of visas. Similarly, the Supplement B also stated that the Applicant had to report if he ventured far from the apartment, but the Applicant’s own statements do not indicate this.

The Applicant also has not shown that his alleged traffickers caused him to incur debt and used that debt as part of a scheme, plan, or pattern intended for him to believe that he would suffer serious financial harm or financial ruin if he did not accept the working conditions or remain in a condition of servitude as he asserts. As stated, we acknowledge that [] used fraudulent tactics and promises to recruit the Applicant, and the Applicant and his family relied on those promises and borrowed money to pay [] large recruitment and related fees. The record also indicated that [] did not disclose the additional expenses the Applicant would have in the United States, which ultimately reduced his ability to pay back the loans. However, while we recognize the Applicant experienced anxiety as a result of his inability to pay back his outstanding loans which caused him to not complain about his work conditions, he has not described any specific instances reflecting that [] [] and its associates had knowledge of his debts and used or intended to use the debt as a means to subject him to servitude and compel him to work.

We also acknowledge the Applicant's assertion that [] and [] threatened him with deportation and that a representative of [] told him to leave the United States after the work contract with his U.S. employer terminated or he will be deported. However, this is insufficient to establish that his alleged traffickers used threats of legal process in the form of deportation or as a part of a scheme to induce him into a condition of servitude. We note that H-2B employers are obligated by law to notify the Department of Homeland Security in writing of any H-2B employee's separation from employment. 29 C.F.R. § 503.16(y) (setting forth H-2B employer assurances and obligations). The Applicant did not claim or provide any probative information regarding the underlying circumstances of this incident to show that the purpose of this statement by [] representative was to threaten him or force him to enter or continue in a condition of servitude, rather than to provide information about the immigration consequences of the termination of the H-2B employment contract. As stated, he was instead released from his H-2B employment. The Applicant also recalled another incident when a group of workers complained about the work conditions and a representative of his employer present told them that they should not complain because their visas could be cancelled and they could be deported. The representative also said that they are replaceable and should be thankful the company brought them to the United States. In response to the NOID, the Applicant further explained that the individual that made these comments was "like the CEO" and a "big boss." However, the Applicant did not assert these statements were made to keep him in a condition of servitude or otherwise coerce him to remain in their employment in such a condition. To the contrary, the Applicant's statements indicate that his employer forced him to take days off because there was not sufficient work, and his employment contract specifically allowed him to pursue other employment in his free time, although he stated there was a "lack of ability" to do so without further explanation. Accordingly, the record does not establish, by a preponderance of the evidence, that [] [] or its affiliates placed or intended to place the Applicant into a condition of servitude induced by the abuse or threatened abuse of legal process through threats of deportation as he asserts. *See* 8 C.F.R. § 214.11(a) (defining "involuntary servitude"); *see also Matter of Chawathe*, 25 I&N Dec. 375-6 (explaining that an applicant bears the burden to establish eligibility by a preponderance of the evidence, and that in determining whether an applicant has satisfied this burden, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence).

Accordingly, the Applicant has not demonstrated that [] or [] or any other individual or entity, subjected or intended to subject him to involuntary servitude, peonage, or debt bondage, as he asserts, and he therefore has not established he is a victim of trafficking, as required by section 101(a)(15)(T)(i)(I) of the Act.

As this determination is dispositive of this appeal, we decline to reach and hereby reserve the Applicant's remaining appellate arguments relating to the remaining eligibility requirements. *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 M-F-O-*, 28 I&N Dec. 408, 417 n.14 (BIA 2021) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). We therefore do not reach the Applicant's arguments on appeal that he has demonstrated he is physically present in the United States on account of having been a victim of trafficking under 8 C.F.R. § 214.11(g)(1).

As the Applicant has not demonstrated that he is the victim of a severe form of trafficking in persons, he is ineligible for nonimmigrant classification under section 101(a)(15)(T) of the Act.

ORDER: The appeal is dismissed.