



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

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

In Re: 17739798

Date: MAY 04, 2022

Appeal of Vermont Service Center Decision

Form I-914, Application for T Nonimmigrant Status

Section 101(a)(15)(T)(i) of the Act provides that an applicant may be classified as a T-1 nonimmigrant if he or she: is or has been a victim of a severe form of trafficking in persons; is physically present in the United States on account of such trafficking; has 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.”<sup>1</sup> 8 C.F.R. § 214.11(a) (2017).

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). 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).

The Director of the Vermont Service Center denied the Form I-914, Application for T Nonimmigrant Status (T application), finding that although the Applicant describes two separate periods of time where she experienced a severe form of trafficking in persons: one with her aunt and another with P-,<sup>2</sup> only the period of time the Applicant spent with her aunt met the definition of the term severe form of trafficking in person because the interactions with P- were related solely to domestic violence. The Director then found 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 as it related to the events which occurred while she resided with her aunt. The matter is now before us on appeal.

On appeal, the Applicant asserts that the Director misinterpreted both the law and facts in finding that she was not a victim of a severe form of trafficking in persons as that term related to her interactions with P-. She contends that P- subjected her to involuntary servitude, which occurred in the context of

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<sup>1</sup> The definition also includes commercial sex trafficking, which we do not reach in this case.

<sup>2</sup> Initials are used in this decision to protect the identities of individuals.

domestic violence and while she was a minor in a sexual relationship with a man 15 years older than her (the Applicant being 13 years old and P- being 28 years old). Stemming from this assertion, the Applicant then contends that the Director misapplied the law and the facts of her case as they apply to her physical presence in the United States being on account of her trafficking and her reporting the trafficking to law enforcement. She submits a brief in support.

#### A. The Applicant's Trafficking Claims

The Applicant, a 40-year-old native and citizen of Honduras, indicated she entered the United States in August 1994 at the age of 12 years old, without being inspected, admitted, or paroled. In 2019, she filed the instant T application, asserting that she was the victim of involuntary servitude by her aunt and the victim of both involuntary servitude and a commercial sex act by her abusive domestic partner, P-, in the United States.

As stated above, the Director found the Applicant to be a victim of a severe form of trafficking in persons as defined by 8 C.F.R. § 214.11(a) when she was recruited and then harbored in the United States by fraud for the purpose of involuntary servitude. The Applicant, who in Honduras was abandoned by her mother to an abusive stepfather, was smuggled into the United States in 1994 at the age of 12 years old by her aunt. This aunt, who arranged and paid for the smugglers, promised the Applicant she could enroll in school in the United States, but instead made her work as a maid. The Applicant stated that she was forced to cook and clean for her aunt, her aunt's boyfriend, and three other boarders who resided with them. She describes how her aunt told her that she had to work to pay off the smuggling debt, but she was never informed of how much she owed or how much her work was worth. The Applicant states that her aunt controlled her movements and was verbally abusive. She left her Aunt's house in 1995 to move in with P- who she met when he was a boarder at her aunt's home. She was 13 years old.

Thus, what is at issue on appeal is whether the subsequent actions by P-, which we will describe in detail below, also meet the definition of a severe form of trafficking in persons. We find that they do.

In her statement, the Applicant explains that at the age of 13 years old she left her Aunt's household to move in with Mr. P-, who was 28 years old. The Applicant states that she went with P- because he seemed sympathetic to the suffering she was experiencing with her aunt and promised her a safe and happy place to live. At the age of 14 years old, she became pregnant, and her first child was born in 1996. She relates that P- gave the hospital a fake birthdate for her to make her seem like she was 17 years old so he would not be implicated in statutory rape. Then, when the Applicant was 16 years old, P- obtained a fraudulent birth certificate for her and using this birth certificate and other fraudulent information to obtain Temporary Protected Status and employment authorization for the Applicant so that she could work. In 2000, at the age of 19 years old, the Applicant had her second child with P-.

The Applicant describes how from 1996 to 2006, P- was verbally, physically, and sexually abusive, but given her age (13 to 23), her status in the country, his control over her life, and her lack of other support systems, she was fully dependent on him for food and shelter. She states how once P- obtained work authorization for her, she began to work, but P- would take all of her wages by physical force and coercion. She describes how Mr. P- would yell at her, demanding her wages stating that the money was for him and their children. She explains that P- hit her and violently stole her pay when she

attempted to resist his demands. She also asserts that P- would physically force her to have anal sex with him and she was forced to perform domestic duties like cooking or cleaning in order to obtain her basic necessities, including food, shelter, and transportation. The Applicant describes further how P- would threaten her, reminding her she had no one else to turn to in her life and asserting that if she tried to get help, he would, “make things worse.” In addition, she claims P- would threaten to kill her. In 2006, the Applicant states that she was able to get P- to leave their home after he met another woman, and she states that he then returned to Honduras and does not support their two children.

#### B. Meeting the Definition of a Victim of a Severe Form of Trafficking in Persons

An applicant seeking to demonstrate that he or she was a victim of a severe form of trafficking must show: (1) that he or she was recruited, harbored, transported, provided, or obtained for his or her 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. *See* 22 U.S.C. § 7102(8); 8 C.F.R. § 214.11(a) (defining the term “severe forms of trafficking in persons”). As defined at 8 C.F.R. § 214.11(a), coercion means “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.”

The record establishes that P- harbored the Applicant through coercion, subjecting her to involuntary servitude from 1996 to approximately 2006, using physical violence and threats that made her believe she would suffer harm if she did not remain in a condition of servitude. P- harbored the Applicant by concealing, suppressing, possessing, and retaining her at his home. He controlled the Applicant’s access to money by taking her wages and limiting her ability to provide for her basic needs without him. P- also raped the Applicant, made her perform domestic chores, and isolated her from family in the area. The record further shows that P- harbored the Applicant through coercion by subjecting her to physical, sexual, and emotional abuse, as well as intimidation, threatening to kill her or “make things worse,” if she tried to get help or did not do as he asked. Accordingly, the record shows P- harbored the Applicant through a “scheme, plan, or pattern . . . caus[ing]” the Applicant to believe that failure to comply with his demands “would result in serious harm . . . ,” as described in the definition of coercion under 8 C.F.R. § 214.11(a).

Furthermore, we find that Mr. P- obtained and harbored the Applicant for the purpose of subjecting her to involuntary servitude during most of their relationship.

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). 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.) (10th ed. 2014). Slavery is defined as “a situation in which one person has absolute power over the life, fortune, and liberty of another.” *Id.*

As discussed above, the record reflects that P- subjected the Applicant to domestic violence in the form of emotional, sexual, and physical abuse during their relationship. Here, a preponderance of the evidence indicates that a trafficking situation arose during the course of this relationship when P- obtained and harbored the Applicant for the purpose of subjecting her to involuntary servitude, and in fact, subjected her to involuntary servitude. Notably, the Applicant was 13 years old and P- 28 years old when their relationship began, soon after she had her first child, at the age of 14 years old, and the labor trafficking situation began when she was forced to work, giving P- all her wages, as well as cook and clean for P-. She maintained she was completely reliant on P- for her survival and in turn, he made her have anal sex with him, work under fraudulent identity documentation, perform domestic duties, and give him all of her earnings. She described the physical and emotional abuse he inflicted to make her comply, as well as his threats to her life. The Applicant indicated that P- left the household only after being unfaithful to her and returned to Honduras where he would no longer have to financially support his children. The Applicant’s statements demonstrate that for a period of approximately 10 years, P- harbored the Applicant through coercion for the purpose of subjecting her to involuntary servitude and that he actually subjected her to a condition of servitude by forcing her to perform labor, including sexual services, by “means of [a] scheme, plan, or pattern intended to cause [her] to believe that” if she did not continue in such condition, she “would suffer serious harm,” as required by the definition of involuntary servitude at 8 C.F.R. § 214.11(a).

As stated, the record indicates that P- subjected the Applicant to domestic violence in their relationship, and she suffered serious physical and emotional harm at his hands as a result. Although the Director indicated the Applicant was in a relationship involving domestic violence that did not include labor trafficking, we now reverse this finding and conclude the record also establishes that during the course of the relationship involving domestic violence, a trafficking situation arose in which P- used the controlling and abusive nature of their relationship to harbor the Applicant through coercion for the purpose of subjecting her to involuntary servitude in order to support him. Accordingly, the Applicant has established that she is the victim of a severe form of trafficking in persons (occurring from 1996 to 2006), as required by section 101(a)(15)(T)(i)(I) of the Act and as defined in the regulation at 8 C.F.R. § 214.11(a).

As stated above, the Director’s other grounds for denial stem from an initial finding that the Applicant had only shown she was a victim of a severe form of trafficking in relation to her aunt’s actions, thus we are remanding the matter for the Director to review all other eligibility criteria in the context of our finding that the Applicant is also a victim of a severe form of trafficking based on events which occurred from 1996 to 2006.

In addition, we acknowledge the Applicant’s submission of evidence regarding the reporting of both trafficking incidents to the [redacted] North Carolina Police Department in May 2019, as well as her

compliance with requests to assist in the investigation of her trafficking. In addition, in regard to her physical presence in the United States being on account of her trafficking, attention should be given to the Applicant's ongoing mental health conditions, her use of mental health services for trafficking victims, her participation in an ongoing investigation of her trafficking, and any fears she has of her trafficker in Honduras.

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