



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

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

In Re: 21402250

Date: MAY 9, 2022

Motion on Administrative Appeals Office 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 she is physically present in the United States on account of a severe form of trafficking in persons. We dismissed the Applicant's subsequent appeal, concluding that the Applicant did not establish that she is the victim of a severe form of trafficking in persons and that she is physically present in the United States on account of such trafficking. The matter is now before us on a motion to reopen and a motion to reconsider. Upon review, we will dismiss the motions.

**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) (reiterating the statutory eligibility criteria). The term "severe form of trafficking in persons" is defined in 22 U.S.C. § 7102(11) and 8 C.F.R. § 214.11(a) 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>

The Applicant bears the burden of establishing their eligibility, and must do so 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, 375 (AAO 2010).

A motion to reopen must state new facts and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be

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<sup>1</sup> The definition of trafficking also includes "sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act is under the age of 18 years." *Id.* The Applicant does not allege nor does the record support that she was a victim of sex trafficking.

supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or policy. 8 C.F.R. § 103.5(a)(3). The motion to reconsider must also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. *Id.* We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

## II. ANALYSIS

The Applicant is a citizen of the Philippines who most recently entered the United States in December 2007 as an H-2B nonimmigrant to be employed as a housekeeper in a hotel. She filed her T application in January 2018.

In our prior decision dismissing the Applicant's appeal, incorporated here by reference, we determined that she was not recruited or obtained for the purpose of subjecting her to debt bondage, despite her accrual of debt to cover recruitment costs, because the record does not demonstrate that she pledged her personal services as a security for her debt. We specifically noted that the Applicant's claim, through counsel, that her continued labor was a security for the debt is not supported by the record, as the Applicant has not provided details regarding her arrangements with her lenders. Further, we determined that the record does not establish that the Applicant was placed in a condition of servitude or in a condition intended for her to believe that if she did not continue, she would suffer financial harm or financial ruin, as the evidence is insufficient to establish that she was placed or intended to be placed into a condition of servitude induced by the abuse or threatened abuse of legal process. Finally, we concluded that as the record does not establish that the Applicant was the victim of trafficking either before or after her 2007 re-entry, she has not demonstrated that she is physically present in the United States on account of such trafficking. The Applicant has not submitted new evidence, nor established legal error in our prior decision, and has not overcome these determinations on motion.

On motion, the Applicant solely submits a brief from counsel. The Applicant states, through counsel, that our office "erred in the determination that the conduct and the circumstances surrounding [her] victimization is not consistent with the legal definition of human trafficking" and that "her victimization started from her recruitment in the Philippines and the acts of trafficking continued in the United States." She states that the "labor traffickers utilized fraud and coercive methods and subjected [her] to debt bondage and involuntary servitude" and that "her presence in the United States was directly due to the fraudulent and coercive scheme of the labor traffickers."

The Applicant claims, through counsel, that there is no need for her to "pledge" her personal services as a security for her debt as it is evident that, in context, her asking to be employed is tantamount to offering her services to be able to secure and pay her debts and that her traffickers were aware that the only way she could afford their fees and additional charges was if she were to continue working. She states that even if she had not borrowed money from the traffickers, they did charge exorbitant fees and charges, which resulted in the Applicant owing them a large amount of money. However, as discussed in our previous decision, the Applicant's assertion that "her asking to be employed is tantamount to offering her services to be able to secure and pay her debts," is not sufficient to demonstrate that she was subjected to debt bondage. *See* 8 C.F.R. § 214.11(a) (defining the term "debt bondage" as the status or condition of a debtor arising from a pledge by the debtor of his or her personal services 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). Here, the Applicant paid placement fees, was advised of the costs prior to her procurement of an H-2B visa, and voluntarily secured a loan through an outside lender to pay the costs. Further, the Applicant does not provide details regarding her arrangements with her lenders, and again, the assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988).

The Applicant further claims, through counsel, that the trafficker's coercive scheme was intended to subject her to involuntary servitude as she was subjected to a coercive environment due to the threats and pressures exerted by the traffickers. She states that she had to continue working, despite the oppression and threats of the traffickers, to avoid serious harm, such as her legal status in the United States and financial ruin. Finally, she asserts that her declarations are credible evidence that narrate the different instances of threats and intimidation she endured. However, as discussed in our previous decision, the record shows that the terms of the Applicant's employment in the United States were consistent with those set forth in her contract and that she was financially compensated for her work. Further, the record does not indicate that the Applicant was pressured to continue working, as evidenced by her employment with another company in the United States. *See* 8 C.F.R. § 214.11(a) (defining the term "involuntary servitude" as a condition of servitude 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. While the Applicant's statements indicate that she was threatened with reporting her to immigration or deportation, again, these statements are general in nature and lack probative detail regarding the nature and contents of the conversations. Counsel's assertions on motion are not sufficient to establish that the Applicant was placed or was intended to be placed into a condition of servitude induced by the abuse or threatened abuse of legal process.

Here, the Applicant has not submitted new evidence or established legal error to demonstrate that our previous decision on appeal was based on an incorrect application of law or USCIS policy or that it was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). Accordingly, the Applicant has not overcome our previous determination that she has not shown that she is the victim of a severe form of trafficking in persons and that she is physically present in the United States on account of such trafficking, as required by section 101(a)(15)(T)(i)(II) of the Act.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.