U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 23861874

Date: JAN. 12, 2023

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 a subsequent appeal and a motion to reopen and reconsider, concluding that the Applicant did not establish that she is the victim of a severe form of trafficking in persons or that she is physically present in the United States on account of such trafficking. The matter is now before us on a second motion to reopen and reconsider. Upon review, we will dismiss the motion.

In these proceedings, it is the applicant's burden to establish eligibility for the requested benefit 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). 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).

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. Id. at § 103.5(a)(3). We may grant a motion that satisfies these requirements and establishes eligibility for the benefit sought.

In our prior decisions, incorporated here by reference, we concluded that the record did not establish that the Applicant was the victim of trafficking either before or after her 2007 re-entry, and therefore, she did not demonstrate that she is physically present in the United States on account of such trafficking.[1] Specifically, we determined that the Applicant was not recruited or obtained for the

[1] 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.

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,[2] and the record did 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.[3] We also explained that while the Applicant indicated that she was threatened with deportation, her statements were general in nature and lacked probative detail, and therefore, were insufficient to establish, by a preponderance of the evidence, that she was placed into a condition of servitude induced by the abuse or threatened abuse of the legal process.

On motion, the Applicant reasserts that she was recruited or obtained for the purpose of subjecting her to debt bondage as well as placed into a condition of involuntary servitude. However, the Applicant has not presented new facts, cited any binding precedent decisions or other legal authority establishing that our prior decisions incorrectly applied the pertinent law or agency policy, or established that our prior decisions were incorrect based on the evidence of record at the time of the initial decision, as required under 8 C.F.R. § 103.5(a)(3). Accordingly, the Applicant has not overcome our previous determinations that she has not shown that she is the victim of a severe form of trafficking in persons or 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.

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."

[2] We noted that the Applicant's claim that her continued labor was a security for the debt was not supported by the record, as the Applicant had not provided details regarding her arrangements with her lenders. Further, we explained that 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.

[3] As noted in our prior decisions, 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.