



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

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

MATTER OF N-N-A-R-

DATE: MAR. 29, 2018

APPEAL OF VERMONT SERVICE CENTER DECISION

APPLICATION: FORM I-914, APPLICATION FOR T NONIMMIGRANT STATUS

The Applicant, a native and citizen of Honduras, seeks T-1 nonimmigrant classification as a victim of human trafficking. The T-1 classification affords nonimmigrant status to victims who assist authorities investigating or prosecuting the acts or perpetrators of trafficking. *See* Immigration and Nationality Act (the Act) sections 101(a)(15)(T) and 214(o), 8 U.S.C. §§ 1101(a)(15)(T) and 1184(o) (outlining eligibility requirements).

The Director of the Vermont Service Center denied the Form I-914, Application for T Nonimmigrant Status (T application), concluding that the Applicant had not established he was a victim of a severe form of trafficking in persons and therefore could not further establish that he was physically present in the United States on account of such trafficking.

On appeal, the Applicant submits a brief and reasserts his eligibility as a victim of human trafficking. Upon *de novo* review, we will dismiss the appeal.

I. LAW

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 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 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) (2017).¹

¹ During the pendency of this application, the Department of Homeland Security issued an interim rule, effective January 18, 2017, amending its regulations at 8 C.F.R. § 214.11 for victims of human trafficking who seek T nonimmigrant status. *See Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for “T” Nonimmigrant Status* (Interim T Rule), 81 Fed. Reg. 92266, 92308-09 (Dec. 19, 2016). The amendment to the regulations did not, however, affect the outcome of this particular case.

The burden is on the applicant to demonstrate eligibility for T-1 nonimmigrant status. 8 C.F.R. § 214.11(d)(5); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). USCIS will conduct a *de novo* review of all evidence, may investigate any aspect of the application, and determine, in its sole discretion, the evidentiary value to give all evidence. 8 C.F.R. § 214.11(d)(5).

II. ANALYSIS

The Applicant, a 17-year-old native of Honduras, filed the instant T application in 2016 based upon his claim that he was trafficked. In his statements, the Applicant discussed his approximately 15-day journey to the United States. He recounted that when he was 14 years old he left Honduras and traveled alone to the United States because of threats from gang members. The Applicant stated that for the initial stage of his journey he traveled on a bus to [REDACTED], a city in Honduras. He stated that from there he “got a ride” with seven other people to Mexico. According to the Applicant, after he arrived in Mexico and was walking alone for a period of time, he met a man who traveled with him for two days, and then the man went in another direction. At this point in his journey, the Applicant claimed that he entered a desert where he subsequently met three men who were carrying backpacks. The Applicant stated that the men had knives and ordered him to carry one of the backpacks. He recalled that the backpack was heavy but he carried it because the men threatened to leave him alone in the desert without food and water if he did not comply. The Applicant stated that he feared for his life. He recounted that after he waded across a river he fell down but the men kicked his legs until he began walking again. The Applicant claimed that half an hour later, immigration officers arrived on the scene and then one of the men punched him and pushed him into thorns. He stated that the immigration officers apprehended him but the three other men were able to flee with the backpacks.

In his denial notice, the Director focused on inconsistencies between the Applicant’s statement and information contained in the Form I-213, Record of Deportable/Inadmissible Alien, which a Border Patrol Agent completed upon the Applicant’s apprehension. Specifically, the Director cited information contained in the Form I-213 stating that the Applicant was part of a group which included 25 other individuals who were picked up in a truck in [REDACTED] Mexico and driven to the [REDACTED] where they crossed the border into the United States. The Director also discussed the Applicant’s statements to the Border Patrol Agent in which he testified that his father made smuggling arrangements for the Applicant’s travel to the United States. The Director noted that the Applicant stated he was in “good health” and did not relay any information to the Border Patrol Agent about the purported trafficking and the actions of his alleged traffickers. Referencing the difference between smuggling and a claim of trafficking, the Director concluded that the discrepancies in the record diminished the credibility of the Applicant’s statements, and the record as a whole was not sufficient to establish his trafficking claim.

On appeal, the Applicant asserts that he is “an individual who was recruited and whose labor services were obtained through the use of force and coercion for the purpose of involuntary servitude.” He argues that the Form I-213 contains inaccurate information, is based on templated questions, and does not reflect that the Border Patrol Agent made contemporaneous entries during

his interview with the Applicant. The Applicant further asserts that he feared reporting his trafficking to the Border Patrol Agent because he believed that he may have violated the law by carrying the backpack. Although we acknowledge the Applicant's claim that he did not report the claimed trafficking out of fear, this missing information is not the only discrepancy in the Applicant's case. A review of the Applicant's statements and other evidence show that overall, he has not provided a detailed, probative, and credible account sufficient to establish the claimed trafficking scheme.

According to the Form I-213, the Applicant testified that his father, who resides in the United States, arranged for a smuggler to transport him to the United States. The Applicant on appeal asserts that this information is inaccurate and he planned and arranged his travel from Honduras to the United States on his own. His appellate statement is similar to his declaration before the Director that he alone made the 15-day journey to the United States, at times following other individuals, and at other times traveling by himself. He argues that this claim is supported by the statements from his parents and grandfather who also indicate that he traveled alone. Although the Applicant claims that the Border Patrol Agent did not accurately record his testimony, the Applicant has not identified any significant inconsistencies in the Form I-213. The Applicant asserts that the Border Patrol Agent incorrectly wrote in the Form I-213 that he resided in Honduras with his grandmother instead of his grandfather. However, the Applicant's parents' statements indicate that the Applicant resided with his "grandparents" and the psychological evaluation submitted on appeal also reports that the Applicant resided in Honduras with his grandparents.

The Applicant further asserts that the Form I-213 is inaccurate because it indicates that he was traveling with his father. Yet, the Form I-213 clearly identifies the Applicant as an "unaccompanied juvenile" and the Border Patrol Agent placed him in the custody of the Office of Refugee Resettlement as an unaccompanied child. The Applicant does not contest that the Form I-213 contains correct information regarding his parents' names and contact information, as well as the location of his residence in Honduras. Given the overall accuracy of the Form I-213 and the lack of independent evidence otherwise, the record does not support a finding that the information contained in the Form I-213 regarding the Applicant's manner of entry into the United States is erroneous. The Border Patrol Agent indicated on the Form I-213 that the Applicant spent three days in [REDACTED] Mexico and then was picked up in a truck with 25 other individuals and taken to the [REDACTED] where he crossed into the United States. This information casts doubt on the credibility of the Applicant's claim that he was trafficked into the United States.

In his psychological evaluation which the Applicant submits on appeal, the Applicant provides the same general discussion of his travel to the United States as provided in his statements before the Director. He also provides some additional information such as that he traveled using \$85 that his parents had given him to pay for food and transportation and that the three men who forced him to carry the backpack into the United States had pistols as well as knives, rationed his intake of water, and only allowed him to sleep for a few hours. He does not, however, describe with probative, credible detail how, at the age of 14, he was able to travel from Honduras to the United States without any assistance. For example, the Applicant reported to the psychologist that he took a bus to

the Guatemala-Mexico border and then traveled through Mexico to the United States, without any probative details of this travel. In his second declaration, the Applicant stated that he “travelled through Mexico . . . in different cars and buses.” The Applicant did not further describe how he arranged his transportation, purchased food, his sleeping arrangements during this leg of the journey, and how he was able to navigate and map his path to the United States. This lack of detail casts further doubt on the Applicant’s claim of walking alone into a desert near the U.S. border and thereafter being trafficked into the United States, rather than entering the United States with the assistance of a smuggler.

An applicant may submit any credible evidence relating to a T nonimmigrant application for consideration by USCIS; however, we determine, in our sole discretion, the evidentiary value to give that evidence. 8 C.F.R. § 214.11(d)(5). In this case, the Applicant has not shown with detailed, probative, and credible testimony that he was the victim of a severe form of trafficking in persons, as section 101(a)(15)(T)(i)(I) of the Act requires. As the Applicant has not established he was a trafficking victim, he necessarily cannot establish that he is physically present in the United States on account of such trafficking, as section 101(a)(15)(T)(i)(II) of the Act requires. Consequently, the Applicant is not eligible for T nonimmigrant classification.

ORDER: The appeal is dismissed.

Cite as *Matter of N-N-A-R-*, ID# 974644 (AAO Mar. 29, 2018)