



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

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

In Re: 35931136

Date: FEB. 13, 2025

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. sections 1101(a)(15)(T) and 1184(o).

The Director of the Vermont Service Center denied the application, concluding that the Applicant did not establish that he was a victim of a severe form of trafficking in persons, among other findings. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *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 has been a victim of a severe form of trafficking in persons; 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 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.” 22 U.S.C. § 7102(11); 8 C.F.R. § 214.201.

An applicant may submit any credible, relevant evidence for us to consider; however, we determine, in our sole discretion, the value of that evidence. 8 C.F.R. § 214.204(1)(1); 8 C.F.R. § 214.204(1)(3).

II. ANALYSIS

The record reflects that the Applicant is a 45-year-old native and citizen of Mexico who claims to have entered the United States without being admitted or paroled. He filed his T application on the basis that he was the victim of labor trafficking by the individuals who smuggled him into the United States and by an American couple who sheltered him. He also claimed that he was the victim of labor trafficking by M-, the owner of a pizza restaurant in Alabama.¹

In denying the T application, the Director determined that the Applicant had not established that he was a victim of a severe form of trafficking in persons by any of the three entities he claimed as section 101(a)(15)(T)(i) of the Act requires.² First, he had not established the smugglers harbored, recruited, transported, provided, or obtained him for the purpose of subjecting him to involuntary servitude by the use of fraud or coercion. The Director determined that despite the Applicant's claim that being asked to carry a backpack constituted labor trafficking, it was instead a consistent with a task necessary to further his smuggling journey. The Director further concluded that although the American couple demanded money from him and his family, this did not establish that they harbored him for the purpose of subjecting him to involuntary servitude; rather, that the Applicant cooked and cleaned for them in exchange for shelter. Finally, the Director determined that the Applicant stated that M- underpaid him for his work and subjected him to mistreatment, but that this constituted labor exploitation and did not equate to trafficking.³

A. The Applicant's Trafficking Claim

The Applicant's declaration (initial declaration) with his T application described the following: In 2011, he paid a smuggler to arrange his travel to the United States. Before leaving Mexico, he explained that he spent a month at a house with the smugglers. The smugglers were armed and threatened the Applicant if he did not obey their orders. Upon traveling to the United States, the Applicant stated he was forced to carry a 30-pound bag that he was told contained food. The Applicant ran away from the group near an immigration checkpoint for fear of being caught by authorities. He approached a house and asked the couple who lived there to let him hide. When he tried to leave, he stated that the couple told him he had to pay them \$5,000 to do so or they would have him deported. They told him if he tried to escape, immigration would catch him. The Applicant had to call his family to ask them to pay this amount. While he was at the couple's house, he stated that they made him cook their food, wash dishes, clean the bathroom, vacuum, and mop floors. The Applicant felt scared

¹ Initials are used to protect privacy.

² The Director also concluded that, as a result, the record did not establish that he was physically present in the United States on account of trafficking, nor that he had complied with reasonable requests for assistance in the investigation or prosecution of acts of severe forms of trafficking in persons. Additionally, the Director determined that the Applicant was not admissible to the United States.

³ In a request for evidence (RFE), the Director noted that the Applicant's statements were inconsistent with an email relayed to the Department of Justice authored by counsel of record and requested an explanation of the inconsistency from the Applicant. Counsel explained in the RFE brief that these were her interpretation of the Applicant's account and that these were not inconsistencies, but differences in word choice. The Director noted the lack of an explanation of the inconsistency from the Applicant in the denial notice. On appeal, counsel disputes that inconsistencies remain in the record that are unexplained. As assertions of counsel are not evidence, facts introduced into the record solely by counsel are not entitled to evidentiary weight. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight").

and controlled by the couple who he stated were exploiting him to act as a free live-in maid. After three weeks, the Applicant's family was able to pay part of the money the couple asked for and the woman drove him to where his family lived in California. The Applicant said the fact that the couple let him go without the full payment they had demanded made him think they wanted someone vulnerable to prey on rather than the money.

The initial declaration also described the Applicant's work at a pizza restaurant between 2001-2002 and 2008-2015. He said he never had a contract or records of his hours. Eventually, he felt exploited and at one point he asked for higher pay. His employer, M- refused this request, saying that undocumented workers would not earn more than minimum wage and made derogatory comments about the Applicant's lack of immigration status. M- also got upset when the Applicant took bathroom breaks or sat down for too long.

In a response to the RFE, the Applicant submitted an additional declaration (RFE declaration) stating that he had been forced to carry a bag across the border and did not know what it contained because he never opened it. He reiterated that he felt threatened by his smugglers. The Applicant asserted that he assumed the couple at whose house he stayed knew the smugglers because of how the couple mistreated and extorted him knowing that he was desperate. Regarding his claim of labor trafficking by M-, the Applicant renewed claims that he had felt discriminated against, exploited, and mistreated. He stated that he was forced to work long shifts and extra days without proper compensation, specifically overtime pay, and once was injured on the job and felt he needed to continue working. M- threatened some employees with calling immigration authorities if they refused to perform tasks outside of their responsibilities. The Applicant was aware that other employees were fired for complaining. He contended that he did not believe he would find a better job elsewhere and that he worried he would be removed from the United States if he complained to labor authorities about M-.

On appeal, the Applicant argues that he is a victim of a severe form of trafficking in persons. He submits, among other documents, an additional declaration (appeal declaration) and brief in support of this claim, specifically that all three of the entities subjected him to involuntary servitude. He contends in the appeal declaration that the smugglers told him he had to pay additional money to cross the border, and because the Applicant did not have additional money, he had to carry a 30-pound backpack. The Applicant reiterates that the smugglers were armed and told him not to ask what was in the bag. He states that he never saw the smugglers get food out of the bag and that his and other migrants' food came from other sources on their journey to the United States, which is what made him doubt its contents. The Applicant handed over the backpack to a van that approached the group and shortly after were attacked by cartel members, which made the Applicant think the events were connected. Turning to the American couple, the Applicant states that they initially treated him well, including feeding him, and that he thought they wanted to help him out of the goodness of their hearts. After a week, they began to demand the Applicant cook and clean for them and the Applicant thought they had planned this all along. The Applicant asserts that he wanted to escape but did not know where he was or where to go, and therefore decided to listen to them. He contends that he felt like he had been kidnapped and felt like a servant until his family was able to pay the money the couple wanted. The Applicant's declaration also renews claims of trafficking by M-, including that M- never paid him properly or provided him overtime and threatened to fire him if he ever missed work for a medical issue or family event. He also states that M- called the Applicant when he was in Mexico and

at different times told him contradictory things about M-'s ability to assist the Applicant with lawful immigration status.

The record additionally contains counsel-authored briefs and emails, declarations by the Applicant's relatives, country of origin information, articles about human trafficking, and evidence supporting the Applicant's claim of extreme hardship and that he warrants a favorable exercise of discretion.⁴

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

Upon de novo review, we agree with the Director's determination that the Applicant did not establish that he is the victim of a severe form of trafficking in persons. As relevant in this case, applicants seeking to demonstrate that they were victims of a severe form of trafficking must show: (1) that 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); *see also* 8 C.F.R. § 214.201 (defining the term "severe forms of trafficking in persons").

The Applicant in this case argues that he was recruited, harbored, or transported by force or coercion for the purpose of being subjected to involuntary servitude. As used in section 101(a)(15)(T)(i) of the Act, 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; and

(2) Involuntary servitude includes a condition of servitude in which the victim is forced to work for the trafficker 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 trafficker holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion.

8 C.F.R. § 214.201. 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). As explained below, a preponderance of evidence does not show that the any of the purpose of any actions by the claimed individuals was to subject the Applicant to involuntary servitude, rather than other motivations.

1. Trafficking Claim by Smugglers

The Applicant argues that his smugglers trafficked him because they coerced him to carry a bag for them. The record shows that the Applicant entered into a voluntary agreement under which the smugglers he hired would transport him to the United States. The Applicant's statements also indicate

⁴ The Applicant also claims that he is a person of good moral character. The Applicant is not required to make such a showing for T-1 nonimmigrant classification.

that the smugglers, who were armed, required him to carry a 30-pound backpack and he feared violence from them if he did not comply. On appeal, the Applicant elaborates that the smugglers handed his backpack to a different group in a van. He also states that he thought it was possible the bag contained something other than food, as he never saw the contents.

We acknowledge the Applicant's statements regarding his fear of the smugglers and his observations about the bag. However, he has not provided sufficient probative evidence regarding this incident to show that this task was not incidental to the smuggling operation, or that the smugglers otherwise transported (or recruited, harbored, provided, or obtained) the Applicant for the purposes of being subjected to involuntary servitude, as the Act and regulations require. Rather, the record indicates that the smugglers were transporting the Applicant to the United States to carry out the smuggling arrangement the Applicant had paid them for.

2. Trafficking Claim by American Couple

Next, the Applicant claims that he was trafficked by the American couple who sheltered him because they forced him to cook and clean for them. The record demonstrates that the Applicant requested to stay at their home while he was evading detection by immigration authorities. In his initial declaration, the Applicant stated that the couple threatened to have him deported if he left without paying them \$5000, and he feared that if he escaped, he would be caught by immigration authorities, as they said. While awaiting his family to make this payment, they required the Applicant to cook and clean for them while mistreating him, such as making him remain in a certain part of the house and limiting his food and water.

The evidence establishes that the American couple harbored the Applicant. However, the Applicant has not shown that they did this for the purpose of subjecting him to involuntary servitude. While the Applicant stated that he cooked and cleaned for the couple, his statements do not provide sufficient detail regarding how precisely the couple made him perform these domestic tasks. The record overall indicates that the couple were extorting the Applicant and his family by demanding a ransom for his release and in exchange for permitting him to remain at their home without reporting him to immigration authorities. The Applicant does not allege, and the record does not show, that the couple had any scheme or plan to continue harboring him or to subject him to a condition of servitude in the future if his family did not pay, as evidenced by the fact that they drove him to where his family lived after collecting most of the payment. Furthermore, although the Applicant's statements argue that the couple were working with the smugglers, he has not explained the basis for this belief with probative detail.

3. Trafficking Claim by M-

Finally, the Applicant argues that M- did not pay him the correct amounts and required him to work long hours and therefore trafficked him. The record establishes that M- recruited the Applicant for his labor or services, as evidenced by his contact to the Applicant when he returned to Mexico to offer the Applicant a job. The Applicant's accounts also contain elements of coercion, such as M- threatening his coworkers with deportation. We also recognize the Applicant's statements indicating that M- engaged in unscrupulous and possibly illegal behavior such as verbal abuse, wage theft, and other workplace violations. Nevertheless, the submitted evidence does not demonstrate that M- subjected

the Applicant to involuntary servitude. The Applicant does not argue that M- engaged in the use of, or threats of, “physical restraint or physical injury” or abuse of the legal process to compel the Applicant to work, as contemplated in 8 C.F.R. § 214.201. The Applicant stated that he feared he would lose his job or be deported if he complained and believed he would not be able to get a better job if he quit. While we acknowledge the Applicant’s fear that he could be reported to immigration authorities, he did not detail instances of such threats by M- to him directly. Rather, M- told the Applicant he would be fired if he did not report to work as M- instructed and that M- denied his requests for higher pay.

Based on the foregoing, the Applicant has not established that he was transported, harbored, or recruited by force or coercion for purpose of being subjected to involuntary servitude by any of the individuals he claims. The additional documents submitted by the Applicant do not establish additional specific facts regarding the Applicant’s trafficking claims. Therefore, he has not established that he is a victim of a severe form of trafficking, in the form of labor trafficking, as defined at 22 U.S.C. § 7102(11) and 8 C.F.R. § 214.201.

C. Additional Grounds of Eligibility

On appeal, the Applicant contends that he satisfies the remaining eligibility requirements for T nonimmigrant status because he is physically present on account of trafficking, has fully cooperated with law enforcement, and will suffer severe and unusual harm if not permitted to remain in the United States. Because the Applicant has not established that he is the victim of a severe form of trafficking in persons, he is regardless ineligible for T nonimmigrant status. Moreover, given our finding that the Applicant did not demonstrate that he is the victim of trafficking, we agree with the Director that he necessarily did not establish that he is physically present in the United States on account of such trafficking and that he complied with any reasonable request for assistance in the investigation or prosecution of the trafficking as sections 101(a)(15)(T)(i)(II) and (III) require.

Regardless, as our basis for denial is dispositive of the Applicant’s appeal, we decline to reach and hereby reserve the Applicant’s additional appellate arguments regarding the remaining eligibility criteria for T nonimmigrant classification. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make “purely advisory findings” on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

We recognize the Applicant’s claim that he suffered difficult and exploitative conditions while being smuggled into and working in the United States. Nevertheless, he has not established that he was a victim of a severe form of trafficking. Accordingly, the Applicant is not eligible for T nonimmigrant classification.

ORDER: The appeal is dismissed.