



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

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 6035057

Date: AUG. 31, 2020

Appeal of Vermont Service Center Decision

Form I-914, Applicant 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 record did not establish that the Applicant's physical presence in the United States is on account of trafficking. On appeal, the Applicant submits a brief asserting his eligibility.

We review the questions in this matter de novo. See *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 have 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 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) (2018).

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 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).

## II. ANALYSIS

The Applicant, a native and citizen of the Philippines, claims to have entered the United States in 2013, and filed for T classification in October 2017. She bases her T application eligibility on the claim that she was a victim of labor trafficking. The Director determined that the Applicant demonstrated her victimization of a severe form of trafficking in person, but that she has not established her physical presence in the United States is on account of such trafficking. Upon review,

we agree with the Director that the Applicant has not established her continued presence in the United States is on account of such trafficking.

#### A. Relevant Factual History

The Applicant asserts that while residing in the Philippines she was employed as an insurance clerk and then bank clerk before deciding to look for higher-paying employment abroad. In June 2005, the Applicant submitted an application with [redacted] for seasonal housekeeping in United States' hotels. After an interview with [redacted] (the United States-based company affiliated with [redacted] that she was told would be in charge of all accepted applicants in the United States), the Applicant was hired. Her sister, who resides in the United States, loaned her money for her placement fee, and she made additional payments for her visa application, [redacted] package, travel/health insurance, and immigrant visa fee.

The Applicant claims that [redacted] did not abide by their stated employment terms during her employment with them: they did not provide the first week and groceries, as previously promised; the employer-provided housing included a dirty apartment unit with two people assigned to each room; [redacted] deducted rent and other expenses from her paycheck but the employees were not allowed to seek alternate housing under threat of breach of contract and deportation; and she worked from 8 a.m. to 4 p.m. with no breaks. The Applicant agreed to [redacted]'s offer to renew her visa for placement as a housekeeper for [redacted] because she indicated she had not saved or earned enough to pay off her debts.

The Applicant asserts that the living conditions and employment at [redacted] were just as difficult as her last placement so she wanted to leave, but could not reach her [redacted] contact about her desire to leave, no matter how many times she reached out over phone or email. So, the Applicant used her remaining funds to purchase a flight to [redacted] in February 2007 to live with her U.S. citizen sister, who then took care of the Applicant's living expenses. The Applicant claims that she is now traumatized by her experience, has nightmares, and is in constant fear of being found by [redacted] arrested and deported. A few months after her arrival in [redacted], the Applicant reconnected with her fiancé from the Philippines, gave birth to their son in [redacted] 2008, and is now working at a part-time housekeeper. The Applicant states that she takes care of her son who was diagnosed with mid features of autism and attention deficit hyperactivity disorder, and U.S. citizen father who suffers from hypertensive heart failure and end stage renal disease.

The Applicant contends that she and her family members would suffer severe emotional, physical, mental, and financial hardship should she return to the Philippines. The Applicant claims that she and her husband would be underemployed due to the high rate of unemployment in the Philippines, she would no longer be able to assist with her father's care, her son would lose access to quality health care and education to suffer culture shock in a country with a language he does not speak or understand fluently, and she would be unable to repay her loans. The Applicant asserts that she suffers severe depression and anxiety from the debts she accumulated, was physically drained from her [redacted] jobs and living conditions, and that is afraid of physical harm if she is found by [redacted] and its associates. The Applicant also asserts that she cannot return to the Philippines due to the existing country conditions, including crime and poor health care.

## B. The Applicant is Not Physically Present in the United States on Account of Trafficking

In determining the physical presence requirement, USCIS must consider a T applicant's presence in the United States at the time the application is filed. 8 C.F.R. § 214.11(g)(1); see also Interim T Rule, 81 Fed. Reg. at 92273 (noting that the language of the physical presence requirement under the Act is phrased in the present tense and is interpreted as requiring "a consideration of the victim's current situation, and a consideration of whether the victim can establish that his or her current presence in the United States is on account of trafficking"). The physical presence requirement reaches an applicants who at the time of filing: (i) are currently being subjected to trafficking; (ii) were liberated from trafficking by a law enforcement agency (LEA); (iii) escaped from trafficking before an LEA was involved; (iv) were subject to trafficking in the past and their continuing presence in the United States is directly related to the original trafficking; or (v) were allowed to enter the United States to participate in investigative or judicial processes related to the trafficking. 8 C.F.R. §§ 214.11(g)(1)(i)-(v). In considering the evidence of the physical presence requirement, USCIS may consider an applicant's responses to when he or she escaped the trafficker, what activities he or she has since undertaken to deal with the consequences of having been trafficked, and his or her ability to leave the United States. 8 C.F.R. § 214.11(g)(4).

The Applicant incorrectly claims that the language in the Director's denial "suggests a time cap that excludes victims based on duration of their stay after their human trafficking situation." Rather, the Director indicated that the Petitioner did not establish that her continued presence in the United States is due to trafficking. The Applicant also claims that she had no opportunity to depart the United States, as she was continually prevented from departing as a direct result and consequences of the actions taken by her traffickers, contending that she: 1) was blacklisted by her own government for her overstay, a direct result of the actions of her traffickers, 2) had a lack of resources after "being ensnared in the control of her traffickers," 3) was unaware of the protections and processes in the United States to deal with her trafficking situation and also unaware she was a victim of human trafficking, and 4) was left with severe physical and psychological damage as a direct result of her traumatizing experiences as a victim of a severe form of human trafficking, so she was afraid to seek help for fear of reprisal from her traffickers.

The Applicant submits background information, including a 2004 article concerning the dependence on the Philippines upon migrant workers, a 2013 article concerning Filipino workers sending money back home in a remittance pattern, and a 2011 case study concerning international migration and remittances. The Applicant filed her T application in October 2017, so in accordance with the regulations at 8 C.F.R. § 214.11(g)(1), her physical presence must be considered on this date. The background information relating to Filipino labor migration was not published recent to October 2017, and does not address or confirm the Applicant's claim that she would be blacklisted by the government of the Philippines for overstaying her overseas employment visa or that stigmas exist in the Philippines for labor trafficking victims. The Applicant did not submit evidence, and the record does not otherwise demonstrate, that the Applicant has been blacklisted by the government of the Philippines as a result of her trafficking.

The Applicant further claims that she could not return to the Philippines because she had to remain in the United States to pay off her debts after her trafficking, and could not return because her travel

documents and plane ticket to the Philippines were confiscated. As such, the Applicant contends that she lacked the resources to return to the Philippines due to the control of her traffickers. The Applicant indicated in her affidavit that at the time she decided to leave [redacted], she purchased and took flight to [redacted], where her U.S. citizen sister “had to shoulder all of [Petitioner’s] expenses,” and the Petitioner’s fiancé joined her in [redacted] from the Philippines “a few months after [she] arrived in [redacted]” The Applicant departed from her employment with [redacted] in February 2007. Since that time, her fiancé joined her in the United States, she had their son in [redacted] 2008, became employed as a part-time housekeeper, and married her fiancé [redacted] 2016. The Applicant, when she is not working, states that she cares for her son and her elderly father. The Applicant describes a life that she built in the United States apart from and without recourse from her traffickers. The Applicant submits current financial documentation and asserts that she has been unable to return to the Philippines due to a lack of resources. However, the Applicant’s lack of resources, if not on account of trafficking, is insufficient to demonstrate that she meets the T eligibility requirements. And, the Applicant has not established that when she filed her T application in October 2017, that she lacked such resources on account of trafficking.

The Applicant states that she fears her traffickers threats: 1) that they could report her from breach of contract if she resided in an apartment other than the assigned apartment tied to her contract, which could result in her deportation, and 2) she was threatened with severe punishment: “not getting paid for our hard-earned wages.” Applicant contends that she likely suffers from PTSD from trafficking, but asserts that she will not feel safe enough to seek mental health services until she receives her T classification, as she fears her traffickers’ threats. The threats referenced by the Applicant were tied to her 2005 employment contract. Since then, the Applicant was placed in a different position with the company, left her employer permanently in 2007, and continues to reside in the United States, including when she filed her T application in October 2017. When the Applicant wanted to leave her employer, she made repeated attempts to contact her employer, but received no response. There is no indication that the Applicant had any contact with her employer since she permanently left her employment in 2007. And, the Applicant’s affidavit and submitted evidence clarify that the company that employed her in the United States was shut down entirely in 2012. The Applicant has not demonstrated that her traffickers’ threats prevented her from departing from the United States.

In addition, the Applicant asserts that she did not know that protections existed for her trafficking victimization, and it was only after acquaintances applied for and were granted T-visa status that she also sought assistance. The Applicant claims that a denial of her application would discourage other victims from applying for T classification. Though we acknowledge the Applicant’s unfortunate trafficking victimization, she must meet all the T visa requirements to demonstrate her eligibility for T classification. And, the Applicant’s lack of previous awareness of this benefit does not abrogate the requirement of establishing her physical presence in the United States on account of trafficking.

Overall, the Applicant has not met her burden of demonstrating that her continued physical presence in the United States is on account of trafficking.

### C. Additional Grounds of Eligibility

Since the identified basis for denial is dispositive of the Applicant’s appeal, we decline to reach and hereby reserve the Applicant’s additional appellate arguments regarding whether she meets the

additional eligibility requirements for T classification. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

### III. CONCLUSION

The Applicant has not established her eligibility for T-1 classification because she has not established that her continued presence in the United States is on account of a severe form of trafficking in person.

ORDER:     The application is dismissed.