



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

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

In Re: 8409282

Date: JULY 9, 2020

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. §§ 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 was the victim of a severe form of trafficking in persons, and therefore also did not establish his eligibility for T classification under additional grounds of eligibility. In addition, the Director determined that the Applicant is inadmissible to the United States and his Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (waiver application), submitted to waive this inadmissibility had not been granted. 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 term “severe form of trafficking in persons” is defined 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).¹

¹ 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 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 Guatemala, claims to have entered the United States without admission, parole, or inspection in December 2004. He bases his T application eligibility on the claim that individuals involved in smuggling him into the United States subjected him to involuntary servitude by forcing him to carry backpacks purportedly containing drugs, and clean and wash laundry in a home. Upon review, the Applicant has not established the particular “end” or purpose of his claimed trafficking was to subject him to involuntary servitude. In December 2017, the Applicant filed the instant T application, asserting that he was the victim of labor trafficking by his smugglers.

A. Not a Victim of a Severe Form of Trafficking in Persons

The record does not establish that the Applicant was a victim of a severe form of trafficking because he has not demonstrated that his smugglers’ particular end was *for the purpose of* subjecting him to involuntary servitude, peonage, or debt bondage. An applicant seeking to demonstrate that they were a victim 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. See 22 U.S.C. § 7102(8); 8 C.F.R. § 214.11(a) (defining the term “severe forms of trafficking in persons”). Thus, an applicant must show both the particular “means” used (force, fraud, or coercion) and that such means was used for a particular “end” – namely for the purpose of subjecting the applicant to involuntary servitude, peonage, or debt bondage.

The Director determined that the Applicant did not establish that he was a victim of a severe form of trafficking in persons. Specifically, the Director concluded that the Applicant’s performance of chores, including cleaning, washing, and carrying bookbags, were in furtherance of his smuggling arrangement and that the evidence did not demonstrate that the smugglers purpose was subjecting the Applicant to trafficking. The Director found that the evidence suggested the smugglers’ actions were likely intended to avoid law enforcement detection and did not indicate an intention of anything other than monetary gain in guiding the Applicant to the United States.

The Applicant, in his statements below and on appeal, states that he paid a coyote \$2300 to help him cross the border from Mexico into the United States. The Applicant indicated that his border crossing journey included himself, two other young men, and a family of six. The Applicant indicated that they encountered armed coyotes in a hotel in [REDACTED] Mexico, who told him and the other two young men to carry jugs of water and bookbags on the journey. According to the Applicant, they told the coyotes that carrying bookbags was not part of the agreement, but the coyotes said there would be

consequences if they refused and he felt that he did not have a choice.² When they reached [REDACTED] Arizona, the Applicant recounted that they were taken to a home where they stayed the night, and the bookbags were taken from them. The Applicant states that he never learned what was inside the bookbags that he was carrying, but they were “heavy and full.” After staying the night in [REDACTED] Arizona, the Applicant indicated that he and his border crossing companions were loaded into separate cars, and he was driven to [REDACTED] to a home guarded by armed men. While in [REDACTED] the Applicant claimed that he and others were held in the home, during which time they were forced to clean the home, and wash clothes that were not their own. The Applicant indicated that he did whatever he was told “because these men had guns.” The Applicant further stated that he did not receive any payment for his work. The Applicant claimed that he was held for three days until he was taken to [REDACTED] where he was released to stay with his friend.

The Applicant’s description of the events surrounding his entry into the United States is not sufficient to demonstrate that he was harbored, transported, and obtained *for the purpose of subjecting him to involuntary servitude* as he maintains. As used in section 101(a)(15)(T)(i) of the Act, the term “involuntary servitude” is defined, in pertinent part, 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. Involuntary servitude includes a condition of servitude in which the victim is forced to work for the defendant 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 defendant holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion.

8 C.F.R. § 214.11(a).

The record indicates that the Applicant, the smugglers, and others on his same journey willingly undertook a lengthy and treacherous plan to enter the United States without permission. The Applicant claims on appeal that his smuggling arrangement became a trafficking situation, “in what appears to be a criminal enterprise, separate and apart from the movement of people from Mexico into the United States.” However, the Applicant’s suspicions of a separate criminal enterprise, including what he characterizes “seemingly nefarious” bag transport, are not sufficient to establish that the backpacks he carried were part of such an enterprise. The Applicant claims that the bags “clearly did not contain any items that were necessary for the journey.” However, it is not clear and the evidence does not demonstrate that the bookbag was devoid of items related to the smuggling operation. Similarly, the evidence also does not demonstrate that the Applicant’s cleaning and washing of laundry were unrelated to the larger smuggling enterprise. And, the fact that the Applicant did not agree to or know in advance that the smugglers would require him to carry bags, clean, or wash laundry while smuggling

² The Applicant makes this assertion in his 2019 declaration. We note that the Applicant, in his 2017 declaration, makes a contradictory claim that he “did not ask any questions” of the coyote when he was told to carry two bookbags, as “[t]he coyote was armed.”

him into the United States is not sufficient to show that the smugglers subjected or intended to subject him to involuntary servitude.

We agree with the Director that the Applicant has submitted insufficient evidence to establish that the smugglers who enabled his illegal entry into the United States had recruited, harbored, transported, provided or obtained him for his labor or services through force, fraud or coercion *for the purpose of* subjecting him to involuntary servitude, peonage, debt bondage or slavery. As such, we need not determine whether the Applicant has met the additional requirements of demonstrating he was recruited, harbored, transported, provided or obtained for his labor or services through force, fraud or coercion. Overall, the Applicant has not demonstrated that he was the victim of a severe form of trafficking in persons, as required by section 101(a)(15)(T)(i)(I) of the Act and defined at 8 C.F.R. § 214.11(a).

B. Additional Grounds of Eligibility

Further, 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 he is present in the United States on account of trafficking, whether he complied with any reasonable request from law enforcement, and whether the Director erred in consideration of the Applicant's waiver of inadmissibility. *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 his eligibility for T-1 classification because he has not demonstrated he was the victim of a severe form of human trafficking.

ORDER: The appeal is dismissed.