



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

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

In Re: 6246073

Date: JUNE 24, 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 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). The Director of the Vermont Service Center denied the Form I-914, Application for T Nonimmigrant Status (T application), concluding that the Applicant is not physically present in the United States on account of a severe form of trafficking in persons. On appeal, the Applicant submits a brief and reasserts his eligibility. Upon *de novo* review, we will sustain 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 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 relevant 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).

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, relevant evidence for us to consider in our *de novo* review; however, we determine, in our sole discretion, the value of that evidence. 8 C.F.R. § 214.11(d)(5).

II. ANALYSIS

The Applicant is a citizen of the Philippines who entered the United States in July 2009. He filed his T application in September 2017.

A. The Applicant's Trafficking Claim

The Applicant's personal statements establish the following claim: The Applicant met a labor recruiter in the Philippines and paid \$4000 to accept a job as an agricultural hand packer in the United States. When he arrived in the United States with an H-2B visa, the recruiter's wife, R-R-¹ took him to worker housing in Pennsylvania. He lived in a small space with five other people, and R-R- confiscated their passports and working documents for three weeks until they begged her to return them. His job was difficult, he was paid less than promised, and he was charged for housing and transportation despite promises that they would be free. His paychecks were made out to R-R- and she deducted fees before giving him cash, and he did not earn enough to pay his expenses, support his family in the Philippines, and repay the loan he had taken from family members when he was recruited. R-R- did not allow him to leave the house without permission except to go to work, required him to travel in the official van service for which she charged him, and required him to be under the supervision of the van driver when he went anywhere. Additionally, R-R- told him not to talk to anyone outside the group of workers or to try to escape, and threatened to call the police or have him deported if he did not comply.

Eventually, R-R- told the Applicant that he needed to transfer to a job in West Virginia and that if he refused, he would be deported. R-R- claimed she was the only person who could process the renewal of his visa, and she deducted \$500 from his paycheck and took his tax refund in order to cover the renewal and other fees she said he owed. Also, he earned less than promised and was charged for housing, transportation, and laundry despite having been told they would be free. He was again prohibited from leaving the house without permission and was always supervised. R-R- visited the house every two weeks, called to check on him and the other workers, and sent others to monitor them. She continuously threatened to have him deported if he did not follow instructions. Further, the Applicant was injured due to the strenuous nature of the job and was unable to take sufficient time off to heal after surgery. The Applicant felt he had no choice but to continue working for R-R- because he relied on her to renew his visa and believed she would have him deported if he left. The situation was stressful and he became anxious and depressed. R-R- eventually stopped renewing his visa despite promising to do so.

The Applicant escaped in August 2010 and traveled to [] with his sister's help, and then moved to California in November 2011. He believes that R-R- reported him to immigration and feels nervous when he sees police because he fears they will deport him. He did not return to the Philippines because he could not afford a plane ticket and would be unable to find work in the Philippines, could not repay his loans there, and would be treated as a failure. He also fears that the recruiting agency that hired him could harass, sue, or kill him due to a belief that he reported them and caused the business to be shut down. Further, he would be unable to access needed medical and mental health care in the Philippines.

In a supplemental statement, the Applicant reiterated that he did not have enough money to return to the Philippines after escaping from West Virginia, and that despite finding other work he barely earned enough to survive. He was depressed because he missed his family and was not making enough money to support them or repay his loans. He feels anxious and depressed, has trouble sleeping, and has stomachaches and headaches. He did not know there was help for people in his situation, and only

¹ We use initials to protect identities.

recently learned of an attorney and psychologist who started assisting him. He needs counseling and feels he would not be able to access such care in the Philippines.

B. The Applicant is Physically Present in the United States on Account of Trafficking

Upon *de novo* review, on appeal the Applicant has established that he is physically present in the United States on account of a severe form of trafficking in persons, as section 101(a)(15)(T)(i)(II) of the Act requires.

The physical presence requirement reaches an applicant who at the time of filing, in relevant part, was subject to trafficking in the past and his or her continued presence in the United States is directly related to such trafficking. 8 C.F.R. §§ 214.11(g)(1)(iv). In evaluating the evidence of the physical presence requirement, U.S. Citizenship and Immigration Services (USCIS) may consider when an applicant 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 asserts that he falls into the scenario at 8 C.F.R. § 214.11(g)(1)(iv) because he was trafficked in the past and his continued presence in the United States is directly related to that trafficking. The evidence of record supports the Applicant's claim. The Applicant was trafficked from 2008 to 2010, when he was recruited and harbored through the use of fraud and coercion for the purpose of subjecting him to involuntary servitude. Although he escaped his trafficking situation in 2010, the trafficking has continued to affect his life directly. The Applicant has been unable to return to the Philippines because he cannot afford a plane ticket and would suffer hardships in the Philippines due to his trafficking experience, fear of the recruiters there, and inability to repay the loans he owes to family members for recruiting fees. Furthermore, the Applicant continues to experience serious mental health effects which result directly from his trafficking. As he explained in his personal statements submitted below, he suffers ongoing anxiety, fear, depression, insomnia, and emotional and physical health difficulties as a result of the trauma he experienced.

The Applicant previously provided an evaluation from a psychologist, who stated in part that the Applicant reported flashbacks, insomnia, "recurrent headaches and stomachaches due to his stress and anxiety," a sense of being trapped in the past, and depression. She noted that the Applicant "was inundated by vivid memories of the traumatic episodes in his life" and "had difficulty managing daily life activities" Further, the psychologist stated that the Applicant "continues to find himself reliving [his trafficking] on a regular basis, and it is hindering the quality of his life." The psychologist diagnosed the Applicant with Major Depression, Recurrent, Moderate, and Complex Posttraumatic Stress Disorder. She recommended that the Applicant receive ongoing psychological treatment in order to overcome his traumatic experiences.

The Applicant also previously submitted a letter from the director of the Mental Health Program of the [redacted] confirming that he has been receiving counseling "in order to recover from the trauma of his trafficking experience." Further, he provided two letters from the [redacted] confirming that the Applicant had been receiving services there since January 2017. In one such letter, the organization's anti-trafficking program coordinator and case manager, A-A-, noted that "[t]hrough the years and prior to . . . finding

his current attorney, [the Applicant] did not know that there was hope for someone like him,” that he “spent a long time in isolation because of his victimization,” and “for years he has been struggling with dealing with his trauma.” A-A- noted that the Applicant has attended one-on-one therapy, group therapy, workshops that use art as tools for healing, and “community wellness programs that focus on mindful breathing and meditation for stress and anxiety reduction.” A-A- indicated that the Applicant “needs time to heal and must remain in the United States to continue to receive vital social and legal services that are critical in his recovery from the trauma caused by his trafficking experience.”

On appeal, the Applicant argues that the Director incorrectly concluded that he only sought mental health care for the purpose of filing his T application, and did not consider his explanation that he was not aware of such services sooner. Further, he argues that the Director did not consider his ongoing need for therapy. We agree. Although the Applicant did not begin mental health treatment until 2017, the evidence shows that he was unaware of such services and struggled with basic daily activities during the years in which he did not receive care. The Director’s decision did not consider the Applicant’s explanations regarding why he started therapy so many years after his escape from trafficking, nor did it address the detailed information in the psychological evaluation and related letters regarding the ongoing effects of the trafficking on his daily life and his efforts to obtain treatment. The Applicant’s personal statements, psychological evaluation, and letters from his mental health care providers demonstrate that he continues to suffer serious and ongoing mental health consequences, and accompanying physical symptoms and interference with his daily life, as a result of the trafficking he experienced. The evidence shows that the Applicant remains in the United States because he has been receiving necessary mental health care for trafficking victims since gaining access to it.

Additionally, the Applicant’s ability to leave the United States and return to the Philippines is limited due to his financial struggles resulting from his trafficking, the difficulties he would have obtaining work there, and the possibility that the recruiters who connected him to the trafficker in the United States would harm him in the Philippines. Therefore, the record shows that the Applicant’s continuous physical presence is directly related to his past trafficking, as described at 8 C.F.R. § 214.11(g)(1)(iv). Accordingly, the Applicant’s physical presence in the United States is on account of his having been the victim of a severe form of trafficking in persons, as section 101(a)(15)(T)(i) of the Act requires.

ORDER: The appeal is sustained.