U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 23483283

Date: DEC. 13, 2022

Motion on Administrative Appeals Office Decision

Form I-914, Application for T Nonimmigrant Status

The Applicant seeks T-1 nonimmigrant status 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 revoked the approval of the Applicant's Form I-914, Application for T Nonimmigrant Status (T application), concluding that the Applicant did not provide consistent testimony and sufficient evidence to establish she is a victim of a severe form of trafficking in persons. We dismissed the Applicant's subsequent appeal on the same basis.

The matter is now before us on motion to reconsider. The Applicant submits a brief and reasserts her eligibility for the benefit sought. In these proceedings, the burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.11(d)(5); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we will dismiss the motion to reconsider.

A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

The Applicant is a native and citizen of South Korea who entered the United States around December 2004. In October 2013, the Applicant filed her T application claiming a recruiter fraudulently induced her to travel to the United States, where she was forced to work and was sexually exploited. The Applicant's T application was approved in February 2014. In November 2019, the Applicant was sent a Notice of Intent to Revoke (NOIR), which informed her that her December 2015 interview with two Department of Homeland Security (DHS) Homeland Security Investigations' (HSI) agents and T adjustment application raised inconsistencies in the record relating to her T application. The Director subsequently revoked her T nonimmigrant status. The Director's decision gave diminished weight to the Applicant's testimony and stated the Applicant did not meet her burden to establish she was a victim of a severe form of trafficking in persons or the remaining eligibility criteria under 8 C.F.R. § 214.11(b)(1)-(4).

In our decision to dismiss the Applicant's appeal of that revocation, which is incorporated here by reference, we determined that she had not met her burden to show by a preponderance of the evidence that she is a victim of a severe form of trafficking under 8 C.F.R. § 214.11 and as section 101(a)(15)(T)(i) of the Act requires. In summary, we found that the evidence did not demonstrate that she was recruited, harbored, transported, or obtained by means of force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery, as required for T applicants to establish that they are victims of labor trafficking, as the Applicant here claimed. Specifically, the Applicant had not shown that her employers or the individuals with whom she entered into financial arrangements exhibited force, fraud, or coercion, nor did the record demonstrate that these individuals' purpose was to subject her to involuntary servitude, peonage, debt bondage, or slavery. Turning to the Applicant's claim of sex trafficking, we determined that the Applicant had similarly not met the requirements under 8 C.F.R. § 214.11(a), as she had not described the use of force, fraud, or coercion by her employers, nor did she describe her subjection to commercial sex acts.

On motion, the Applicant has not overcome the reasons for our dismissal of her appeal. She generally disagrees with our determination on appeal that she had not established that she is a victim of trafficking, specifically arguing that our decision mischaracterized some of the facts in her case that demonstrate her eligibility. However, the Applicant has not overcome the reasons for our dismissal of her appeal, as she has not shown how our decision was incorrect based on the evidence in the record at the time.

First, she argues that our decision erroneously identified her reasons for traveling to the United States as a desire to work and pay off her debt, rather than because her fear of U-'s[1] statements regarding the FBI and her anger with the Applicant. While we acknowledge that the Applicant's statements indicate that these events led her to feel pressured to travel to the United States in order to work, the Applicant has not shown on motion that her previous statements establish that U- engaged in force, fraud or coercion for the purpose of subjecting her to debt bondage. Her statements do not contain sufficient detail to establish that U- had such a purpose, particularly given the multiple other factors she described that led to the Applicant's decision to travel to the United States. As explained in our appeal decision, even if we viewed U- as working with the Applicant's later employers in the United States and concede that she has established fraud, the Applicant has not demonstrated by a preponderance of the evidence that her employers' purpose, including U- by extension, was to subject her to involuntary servitude, peonage, debt bondage, or slavery.

Next, the Applicant argues that our appeal decision erred in finding that her 2019 declaration recanted that she had been harbored by A-L-, and instead reiterated that her statement indicated that she felt harbored by A-L. We withdraw our statement on appeal that the Applicant recanted this claim, as we agree that her 2019 statement asserts that she "never claimed that [she] was physically locked up, but I never felt the freedom to be able to escape due to the threats, debts, and other psychological pressure that was imposed on me during that time." Nevertheless, contrary to her assertions on motion that she has established that A-L- harbored her,[2] we find no error in our previous determination that the

[1] We use initials to protect individuals' privacy.

[2] We note that the Applicant's counsel-authored brief on motion contains several assertions regarding A-L-'s treatment of the Applicant that are not evident from her declarations or other evidence in the record. Counsel's statements must be substantiated in the record with independent evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (citing Matter of *Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980)).

Applicant's 2019 declaration did not present facts indicating that her movements were limited, or that she was isolated or concealed. While the Applicant reiterates on motion that A-L- took her to and from work and that his partner lived next to her, consistent with her 2019 declaration, as we explained in our appeal dismissal, the Applicant has not explained on motion how these actions constitute force, fraud, or coercion.

Moreover, on multiple topics, the Applicant claims that our decision focused on irrelevant details, or appeared to require specific evidence that she was unable to provide. She claims that she lacked specific knowledge or memory of specific financial or debt arrangements in her case. While we acknowledge the Applicant's arguments, in these proceedings, she 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). On motion, the Applicant has not shown an alternate characterization of the facts in her case that would establish her eligibility, as she asserts. We therefore find no error in our previous decision that the Applicant has not established that she was subjected to debt bondage. Accordingly, because the Applicant has not shown that our previous decision was based on an incorrect application of law or USCIS policy or that it was incorrect based on the evidence in the record at the time of the decision, we will dismiss the motion.

ORDER: The motion to reconsider is dismissed.