



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

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

In Re: 8327002

Date: JUN. 7, 2023

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 initially approved the Form I-914, Application for T Nonimmigrant Status (T application), but revoked its approval after notifying the Applicant that due to discrepancies in the record, she had not credibly established that she was a victim of a severe form of trafficking in persons. The Director denied the Applicant's subsequent motion to reopen and reconsider and the matter is now before us on appeal. 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); 8 C.F.R. § 214.11(d)(5). 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 they: are or have been a victim of a severe form of trafficking in persons (trafficking); 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. See also 8 C.F.R. §§ 214.11(b)(1)-(4) (reiterating the statutory eligibility criteria). The term "severe form of trafficking in persons" is defined, in pertinent part, as "sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act is under the age of 18 years. . . ." 8 C.F.R. § 214.11(a) (2017).¹

The Applicant bears the burden of establishing their eligibility, and must do so by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *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).

¹ During the pendency of these proceedings, the Department of Homeland Security (DHS) 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).

U.S. Citizenship and Immigration Services (USCIS) may revoke an approved principal T application following issuance of a notice of intent to revoke (NOIR) where: the approval of the application violated the requirements of section 101(a)(15)(T) of the Act or 8 C.F.R. § 214.11 or involved error in preparation, procedure, or adjudication that affects the outcome; a law enforcement agency (LEA) with jurisdiction to detect or investigate the acts of severe forms of trafficking in persons notifies USCIS that the applicant has refused to comply with reasonable requests to assist with the investigation or prosecution of the trafficking in persons and provides USCIS with a detailed explanation in writing; or the LEA that signed the LEA endorsement withdraws it or disavows its contents and notifies USCIS and provides a detailed explanation of its reasoning in writing. 8 C.F.R. § 214.11(m)(2).

II. ANALYSIS

The Applicant, a citizen of South Korea, was granted T-1 nonimmigrant status in November 2012. The Director revoked that approval in November 2017 after considering the Applicant's response to a notice of intent to revoke (NOIR). In February 2019, the Director dismissed the Applicant's motion to reopen and reconsider the revocation.

A. The Applicant's Trafficking Claim

In her written statement before the Director, the Applicant explained that her husband became indebted to loan sharks after borrowing money for a business he started in 2000. The Applicant's husband died unexpectedly in 2002, at which time the loan sharks began contacting her to demand repayment of the debts. The Applicant stated that the largest debtor, B-A-² who was owed \$60,000, showed her "no mercy" as he demanded immediate repayment of the debt and threatened the Applicant with imprisonment. The Applicant also became indebted to a second lender, M-J-, when her father was diagnosed with cancer and she needed to borrow \$30,000 for his medical treatment. This loan included the condition that she repay \$3,000 per month.

Shortly thereafter, B-A- sent the Applicant to work at a place called [REDACTED] on [REDACTED] Korea. When the Applicant arrived, she learned that B-A- had received a \$30,000 "advance" for her from the club, and that she owed [REDACTED] \$30,000 worth of services at an interest rate of \$3,000 per month. The Applicant was surprised to learn that she was expected to work as a prostitute. She felt that she had no choice in the matter as she was already sold to [REDACTED] and owed an additional \$3,000 per month to M-J-. The Applicant explained that she worked seven days per week, slept on a floor with no blankets or pillows, and had to sleep with between five and ten men per day. After about three months, [REDACTED] ceased to operate due to a law enforcement crackdown. M-J- sought but was unable to identify other viable options for repayment by the Applicant. As such, she demanded that the Applicant settle her loan by working in the United States. M-J- found a broker who made a passport for the Applicant, adding \$6,000 to her existing debt of \$39,000.

The Applicant stated that in August 2004, she traveled to [REDACTED] California and that a broker named Mr. I- picked her up from the airport and drove her to a place called [REDACTED]. The Applicant

² We use initials to protect the privacy of individuals.

stated that she was unable to leave, that she “did not see the sun for a whole month,” and that she was forced to sleep in the same room in which she worked, seeing between five and ten men per day. The manager of [] paid all of the money to Mr. I- directly. She stated that [] had two doors and that each was heavily guarded and locked, and that there is no way she could have escaped. After about one month, Mr. I- found her another job at a place called [] which had similar working conditions. The Applicant explained that she developed a pelvic inflammation and that Mr. I- took her to recover at a friend’s house. While she was there, [] was shut down by law enforcement and Mr. I- was arrested during the raid. She stated that she called her only friend, G-H-, who she had met while working. In July 2005, the Applicant relocated to [] to live with G-H-. Around this time, the Applicant learned from her mother that M-J- was sending gangsters to her parents’ home almost every day demanding to know where she was. When the Applicant contacted M-J-, she threatened to have the gangsters hurt her parents and children if she did not pay the interest monthly.

The Applicant stated that from approximately July 2005 until January 2011, she worked for various brokers so that she could repay her debts. Between December 2007 and September 2008, the Applicant stopped making payments on the debts and moved to New Jersey to work at a clothing store for a client from the brothel, but she returned to prostitution after M-J- and B-A- located her family in South Korea, who had moved, and threatened them. She stated that in [] 2009, she was arrested in [] for massaging without a license, but that she did not remember the exact location because her broker at the time, Mr. Y-, took her to different places. The Applicant explained that she had to borrow an additional \$5,000 from Mr. Y- to pay for an attorney. In January 2011, the Applicant helped a friend open a small clothing store called [] but it went out of business after five months. The Applicant avoided calls from M-J- and B-A-, but B-A- eventually reached her and threatened to find her brother and hurt her children. In [] 2011, on her first day resuming work at a health spa in [] California, police raided the spa and the Applicant was arrested and detained by immigration authorities.

The Applicant explained that through this experience, she was able to escape her situation. She explained that an agent from Homeland Security Investigations (HSI) requested her cooperation about a month later, and that he interviewed her at least three times. She stated that she provided information about the loan shark debts and the work she was forced to do, including giving the agent the names and phone numbers of a brothel that was operating as a massage parlor, identifying another individual who was known for making fake IDs and getting his personal phone number, and identifying another individual in a photo lineup. The Applicant explained that the HSI agent put her in touch with her current attorneys.

B. The Director’s Revocation and the Applicant’s Credibility Regarding Her Trafficking Claim

In November 2017, the Director revoked approval of the T application, determining that based on investigative findings and the results of a November 2016 interview between the Applicant and special agents from Homeland Security Investigations (HSI), she had knowingly misrepresented material facts in order to try to obtain T-1 nonimmigrant status. The Director explained that although the Applicant was advised in a March 2017 NOIR that this finding raised questions about the reliability of the information contained in the personal statement that formed the basis of her trafficking claim, the evidence she had submitted in response to the NOIR and subsequent motion to reopen and reconsider

did not sufficiently overcome the inconsistencies and findings. As such, the Director determined that her testimony was unreliable.

We disagree with the Director's conclusion that the Applicant's statements in her HSI interview and NOIR response conflict with her prior statements about her trafficking and that her testimony is unreliable. We withdraw the Director's determination that the Applicant did not provide credible evidence regarding her trafficking claim.

As an initial matter, we acknowledge evidence in the record that supports the Applicant's contention, in her supplemental declaration in response to the NOIR, that she had difficulty understanding the HSI agent during the interview, did not believe that he understood her responses, and felt "attacked, humiliated, and threatened" during the interview. Although the Director stated that the agent who interviewed the Applicant was certified as fluent in the Korean language by HSI and determined that neither the Applicant nor her attorney voiced any objection or concern during the interview, Applicant's prior counsel, who is fluent in Korean, explained in an affidavit with the motion to reopen and reconsider that the interviewer raised his voice, struggled with the Korean language, and threatened to have the Applicant prosecuted, leading counsel and the Applicant to feel frightened and end the interview. Applicant's counsel further stated that in April 2017, she reached out to an HSI unit chief to express her concern, and subsequently met with an HSI supervisory special agent regarding the complaint. On appeal, the Applicant provides copies of email correspondence with HSI regarding the complaint.

Moreover, the record reflects that the interview and subsequent investigation by HSI regarding the Applicant focused on her employment, means of financial support, and living situation since her escape from the trafficking, rather than the trafficking itself. The underlying implication—that the Applicant has continued to work in the commercial sex industry since escaping sex trafficking—is not a sufficient basis to conclude that her claim of past trafficking is not credible.

First, the inquiry regarding the Applicant's employment centered on her position at [REDACTED] performing clerical duties and data entry from around October 2015 until December 2015, and resuming in May 2016. The purported inconsistencies referenced in the Director's decision include: the Applicant's work in the office versus from home; discrepancies regarding the amount of work she performed and her corresponding wage; lack of detail beyond the date and net pay in her paystubs; her misuse of the term "receptionist" to describe her work performing clerical duties; and her failure to provide evidence regarding her prior month's paycheck from one of two claimed bank accounts during the interview.³ The Director determined that due to these inconsistencies, the employment verification letter by the Applicant's employer, submitted W-2 statement, and handwritten payroll checks held little value. Our review of the record indicates that the Applicant's statements about her work at [REDACTED] are not clearly in conflict, and regardless, her employment at [REDACTED] is insufficiently relevant to negate her claims that she was coerced into engaging in commercial sex during the period between 2004 and 2011.

The Director further noted that the Applicant stated, in response to the NOIR, that she had stopped working at [REDACTED] as of February 2017 and had not indicated where she had worked since that time

³ Although the Applicant provided paystubs from the second account on motion to reopen and reconsider, the Director stated that they did not resolve the inconsistencies regarding her employment.

to support herself and her children. The Director stated that it was further unclear why the Applicant voluntarily sought work at the [] massage parlor, a reported known prostitution massage parlor, in August 2013.⁴ The Director also expressed skepticism toward the Applicant's response to questions involving the existence of brothels at addresses in which she had resided beginning in November 2013,⁵ as she stated that she had no knowledge of any brothels existing in the apartment complexes where she and her children had lived.⁶ The Applicant's means of financial support and living situation more than two years after her claimed trafficking situation ended are not clearly relevant to whether the Applicant was trafficked between 2004 and 2011.

Additionally, the Director determined that it was unclear how the Applicant's [] 2011 arrest at the health spa enabled her to escape the threats and coercion of her alleged traffickers in South Korea, as she claimed. However, consistent with arguments made by Applicant's counsel on brief in response to the motion to reopen and reconsider, the record reflects that following the arrest, the Applicant provided assistance to HSI and was connected to the attorneys who enabled her to obtain the protection of T nonimmigrant status, bring her two children to the United States, and receive services.

To summarize, the issues raised by the Director do not establish that the Applicant did not provide credible evidence in support of her trafficking claim. The Applicant's personal statements are internally consistent, and she has provided reasonable explanations for the perceived inconsistencies regarding her life after her escape from the trafficking situation between those statements and her assertions during her HSI interview. The concerns of the Director and the HSI agent arising from the 2016 interview do not establish that the Applicant lacks credibility with regard to her trafficking claim. Consequently, we withdraw the Director's decision to revoke the approval of the Applicant's T application pursuant to 8 C.F.R. § 214.11(m)(2) of the Act.

ORDER: The appeal is sustained.

⁴ In her written statement in response to the NOIR, the Applicant stated that she did not perform any sexual favors in exchange for money at [] and did not willingly return to sex work upon being granted T nonimmigrant status.

⁵ In the NOIR, the Director stated that occupants at one of the Applicant's former addresses admitted to investigators in October 2016 that the unit was operating as a brothel; however, the Director conceded that the Applicant's lease had ended in April 2016.

⁶ The Director appears to have given little weight to a statement by an attorney from the Legal Aid Foundation of [] [] which represents the Applicant, who stated on motion to reopen and reconsider that her 80-year old father currently lives at the apartment complex where the Applicant resided, that he cares for her children there after school, and that she has never observed evidence of brothels or prostitution activity.